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DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Dove Hunting

2) Code Citation: 17 Ill. Adm. Code 730

3) Section Numbers: Proposed Action:

730.10 Amendments
730.20 Amendments
730.30 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.20 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.20 and 3.5].

5) A complete description of the subjects and issues involved: This Part is being amended to standardize site specific regulations and hunting hours.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repea_ date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of statewide policy objectives: This rule has no impact on local governments.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Conservation
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1309

12) Initial regulatory flexibility analysis: This rule does not affect small businesses.

13) State reason(s) for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: Included in Regulatory Agendas submitted for period 1/1/95-6/30/95.

The full text of the proposed amendments begins on the next page:

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF CONSERVATION
SUBCHAPTER b: FISH AND WILDLIFE

PART 730
DOVE HUNTING

Section

730.10 Statewide Regulations

730.20 Regulations at Various Department-Owned or -Managed Sites

730.30 Youth and Youth/Adult Dove Hunts at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.20 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.20 and 3.5].

SOURCE: Adopted at 5 Ill. Reg. 8792, effective August 25, 1981; codified at 5 Ill. Reg. 10644; amended at 6 Ill. Reg. 9631, effective July 21, 1982; emergency amendment at 6 Ill. Reg. 10040, effective August 2, 1982; amended at 7 Ill. Reg. 10767, effective August 24, 1983; emergency amendment at 7 Ill. Reg. 10999, effective August 24, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 13680, effective July 25, 1984; amended at 9 Ill. Reg. 11601, effective July 16, 1985; emergency amendment at 9 Ill. Reg. 14025, effective September 4, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 15590, effective September 16, 1986; amended at 11 Ill. Reg. 9526, effective May 5, 1987; amended at 11 Ill. Reg. 11346, effective June 10, 1987; amended at 12 Ill. Reg. 12186, effective July 15, 1988; amended at 13 Ill. Reg. 10513, effective June 15, 1989; amended at 14 Ill. Reg. 11193, effective June 29, 1990; amended at 15 Ill. Reg. 9951, effective June 24, 1991; amended at 16 Ill. Reg. 11041, effective June 30, 1992; amended at 17 Ill. Reg. 10761, effective July 1, 1993; amended at 18 Ill. Reg. 10009, effective June 21, 1994; amended at 19 Ill. Reg. _____, effective _____.

Section 730.10 Statewide Regulations

- a) Dove regulations are in accordance with Federal Regulations, unless the regulations in this rule are more restrictive. (50 CFR 20.103, 1990)
- b) Season dates: ~~September 1--October 30~~, daily limits and possession limits are in accordance with federal regulations.
- c) Hunting hours: Sunrise to sunset.
- d) ~~Bait--limit:--15~~
- e) ~~Possession limit:--30--after the first hunting day~~

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

Section 730.20 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 - General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) General Regulations
- 1) Hunters shall possess only non-toxic bismuth or lead shot size 6 #7 1/2, 8, 9 or size #6 steel or smaller for taking of doves, except as noted under subsection (b)(2). on the following areas:
 - 2) Only non-toxic shot (as defined by the U.S. Fish and Wildlife Service in 50 CFR 20), #6 steel shot or #7 1/2 bismuth shot or smaller may be possessed on the following areas:

Anderson Lake Conservation Area

Banner Marsh Fish and Wildlife Area

Carlyle Lake Wildlife Management Area (subimpoundments only)

Chain O'Lakes State Park

Hennepin Canal Parkway State Park

Horseshoe Lake Conservation Area (Alexander County)

Kaskaskia River State Fish & Wildlife Area (designated areas)

Lake Shelbyville Wildlife Management Area (waterfowl management units only)

Peabody River King State Fish and Wildlife Area

Rend Lake Project Lands and Waters

Sanganois Conservation Area State Fish and Wildlife Area

Shabbona Lake State Park

Snake Den Hollow State Fish and Wildlife Area

Ten Mile Creek Fish & Wildlife Area (areas posted as refuge rest area on the Eads Mine and Belle River Units (Units I--H #1))

Union County Conservation Area

Wayne Fitzgerald State Recreation Area

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

- 2) Hunters shall use only shot size 7-1/2, 8 or 9 lead or 6 steel or smaller on all areas, except as noted under subsection (b)(1).
- 3) On areas where hunters are required to hunt from marked or staked sites, hunters must hunt within 10 feet of the marked site.
- 4) No hunting is allowed within 100 yards of a designated dove management field except for hunters who are part of the hunter quota for that field.
- 5) At sites indicated by (#), hunters are required to check in and/or sign out as provided for in 17 Ill. Adm. Code 510.
- 6) At sites where additional regulations apply, they are noted in parentheses after the site name.
- c) Statewide season regulations as provided for in this rule shall apply at the following areas except that hunting hours at all state sites open at 12:00 Noon daily unless otherwise indicated (exceptions are in parentheses) sites:

Anderson Lake Conservation Area (5:00 p.m. closing September 1 through Labor Day; sunrise to sunset after Labor Day)

Argyle Lake State Park (5:00 p.m. closing September 1 through Labor Day; sunrise to sunset after Labor Day season opens day after Labor Day)

Banner Marsh State Fish and Wildlife Area (sunrise opening; season dates are September 1--30; 12:00 Noon closing September 1 through Labor Day)

Big Bend Conservation Area (5:00 p.m. closing September 1 through Labor Day; sunrise to sunset after Labor Day)

Big River State Forest (5:00 p.m. September 1 through Labor Day)

Cache River State Natural Area (sunrise opening) (#)

Campbell Pond Wildlife Management Area (5:00 p.m. closing September 1; sunrise to sunset thereafter) (#)

Carlyle Lake Lands and Waters - Corps of Engineers managed lands (#)

Carlyle Lake Wildlife Management Area

Chain O'Lakes State Park (Season dates are September 1--31 only; 5:00 p.m. closing; daily quota filled on first come first serve basis; check in and check out required at hunting must be done within 10 feet of Department of Conservation (Department of BCG) marked area; no gun may be carried into dove fields beyond hunting line; guns must be

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

6---307-daily-quota-filled-on-first-come-fitter-serve-best
hunters-must-check-in-and-check-out-at-dawn-hunters-must-be
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Bake-Sherbyville-Kankakee-and-West-Oka-Park-and-Wildlife
Areas-dove-management-areas-only-September-1-3-5-7-9-11-13-15-17-19-21-23-25-27-29-31-33-35-37-39-41-43-45-47-49-51-53-55-57-59-61-63-65-67-69-71-73-75-77-79-81-83-85-87-89-91-93-95-97-99-101-103-105-107-109-111-113-115-117-119-121-123-125-127-129-131-133-135-137-139-141-143-145-147-149-151-153-155-157-159-161-163-165-167-169-171-173-175-177-179-181-183-185-187-189-191-193-195-197-199-201-203-205-207-209-211-213-215-217-219-221-223-225-227-229-231-233-235-237-239-241-243-245-247-249-251-253-255-257-259-261-263-265-267-269-271-273-275-277-279-281-283-285-287-289-291-293-295-297-299-301-303-305-307-309-311-313-315-317-319-321-323-325-327-329-331-333-335-337-339-341-343-345-347-349-351-353-355-357-359-361-363-365-367-369-371-373-375-377-379-381-383-385-387-389-391-393-395-397-399-401-403-405-407-409-411-413-415-417-419-421-423-425-427-429-431-433-435-437-439-441-443-445-447-449-451-453-455-457-459-461-463-465-467-469-471-473-475-477-479-481-483-485-487-489-491-493-495-497-499-501-503-505-507-509-511-513-515-517-519-521-523-525-527-529-531-533-535-537-539-541-543-545-547-549-551-553-555-557-559-561-563-565-567-569-571-573-575-577-579-581-583-585-587-589-591-593-595-597-599-601-603-605-607-609-611-613-615-617-619-621-623-625-627-629-631-633-635-637-639-641-643-645-647-649-651-653-655-657-659-661-663-665-667-669-671-673-675-677-679-681-683-685-687-689-691-693-695-697-699-701-703-705-707-709-711-713-715-717-719-721-723-725-727-729-731-733-735-737-739-741-743-745-747-749-751-753-755-757-759-761-763-765-767-769-771-773-775-777-779-781-783-785-787-789-791-793-795-797-799-801-803-805-807-809-811-813-815-817-819-821-823-825-827-829-831-833-835-837-839-841-843-845-847-849-851-853-855-857-859-861-863-865-867-869-871-873-875-877-879-881-883-885-887-889-891-893-895-897-899-901-903-905-907-909-911-913-915-917-919-921-923-925-927-929-931-933-935-937-939-941-943-945-947-949-951-953-955-957-959-961-963-965-967-969-971-973-975-977-979-981-983-985-987-989-991-993-995-997-999-1001-1003-1005-1007-1009-1011-1013-1015-1017-1019-1021-1023-1025-1027-1029-1031-1033-1035-1037-1039-1041-1043-1045-1047-1049-1051-1053-1055-1057-1059-1061-1063-1065-1067-1069-1071-1073-1075-1077-1079-1081-1083-1085-1087-1089-1091-1093-1095-1097-1099-1101-1103-1105-1107-1109-1111-1113-1115-1117-1119-1121-1123-1125-1127-1129-1131-1133-1135-1137-1139-1141-1143-1145-1147-1149-1151-1153-1155-1157-1159-1161-1163-1165-1167-1169-1171-1173-1175-1177-1179-1181-1183-1185-1187-1189-1191-1193-1195-1197-1199-1201-1203-1205-1207-1209-1211-1213-1215-1217-1219-1221-1223-1225-1227-1229-1231-1233-1235-1237-1239-1241-1243-1245-1247-1249-1251-1253-1255-1257-1259-1261-1263-1265-1267-1269-1271-1273-1275-1277-1279-1281-1283-1285-1287-1289-1291-1293-1295-1297-1299-1301-1303-1305-1307-1309-1311-1313-1315-1317-1319-1321-1323-1325-1327-1329-1331-1333-1335-1337-1339-1341-1343-1345-1347-1349-1351-1353-1355-1357-1359-1361-1363-1365-1367-1369-1371-1373-1375-1377-1379-1381-1383-1385-1387-1389-1391-1393-1395-1397-1399-1401-1403-1405-1407-1409-1411-1413-1415-1417-1419-1421-1423-1425-1427-1429-1431-1433-1435-1437-1439-1441-1443-1445-1447-1449-1451-1453-1455-1457-1459-1461-1463-1465-1467-1469-1471-1473-1475-1477-1479-1481-1483-1485-1487-1489-1491-1493-1495-1497-1499-1501-1503-1505-1507-1509-1511-1513-1515-1517-1519-1521-1523-1525-1527-1529-1531-1533-1535-1537-1539-1541-1543-1545-1547-1549-1551-1553-1555-1557-1559-1561-1563-1565-1567-1569-1571-1573-1575-1577-1579-1581-1583-1585-1587-1589-1591-1593-1595-1597-1599-1601-1603-1605-1607-1609-1611-1613-1615-1617-1619-1621-1623-1625-1627-1629-1631-1633-1635-1637-1639-1641-1643-1645-1647-1649-1651-1653-1655-1657-1659-1661-1663-1665-1667-1669-1671-1673-1675-1677-1679-1681-1683-1685-1687-1689-1691-1693-1695-1697-1699-1701-1703-1705-1707-1709-1711-1713-1715-1717-1719-1721-1723-1725-1727-1729-1731-1733-1735-1737-1739-1741-1743-1745-1747-1749-1751-1753-1755-1757-1759-1761-1763-1765-1767-1769-1771-1773-1775-1777-1779-1781-1783-1785-1787-1789-1791-1793-1795-1797-1799-1801-1803-1805-1807-1809-1811-1813-1815-1817-1819-1821-1823-1825-1827-1829-1831-1833-1835-1837-1839-1841-1843-1845-1847-1849-1851-1853-1855-1857-1859-1861-1863-1865-1867-1869-1871-1873-1875-1877-1879-1881-1883-1885-1887-1889-1891-1893-1895-1897-1899-1901-1903-1905-1907-1909-1911-1913-1915-1917-1919-1921-1923-1925-1927-1929-1931-1933-1935-1937-1939-1941-1943-1945-1947-1949-1951-1953-1955-1957-1959-1961-1963-1965-1967-1969-1971-1973-1975-1977-1979-1981-1983-1985-1987-1989-1991-1993-1995-1997-1999-2001-2003-2005-2007-2009-2011-2013-2015-2017-2019-2021-2023-2025-2027-2029-2031-2033-2035-2037-2039-2041-2043-2045-2047-2049-2051-2053-2055-2057-2059-2061-2063-2065-2067-2069-2071-2073-2075-2077-2079-2081-2083-2085-2087-2089-2091-2093-2095-2097-2099-2101-2103-2105-2107-2109-2111-2113-2115-2117-2119-2121-2123-2125-2127-2129-2131-2133-2135-2137-2139-2141-2143-2145-2147-2149-2151-2153-2155-2157-2159-2161-2163-2165-2167-2169-2171-2173-2175-2177-2179-2181-2183-2185-2187-2189-2191-2193-2195-2197-2199-2201-2203-2205-2207-2209-2211-2213-2215-2217-2219-2221-2223-2225-2227-2229-2231-2233-2235-2237-2239-2241-2243-2245-2247-2249-2251-2253-2255-2257-2259-2261-2263-2265-2267-2269-2271-2273-2275-2277-2279-2281-2283-2285-2287-2289-2291-2293-2295-2297-2299-2301-2303-2305-2307-2309-2311-2313-2315-2317-2319-2321-2323-2325-2327-2329-2331-2333-2335-2337-2339-2341-2343-2345-2347-2349-2351-2353-2355-2357-2359-2361-2363-2365-2367-2369-2371-2373-2375-2377-2379-2381-2383-2385-2387-2389-2391-2393-2395-2397-2399-2401-2403-2405-2407-2409-2411-2413-2415-2417-2419-2421-2423-2425-2427-2429-2431-2433-2435-2437-2439-2441-2443-2445-2447-2449-2451-2453-2455-2457-2459-2461-2463-2465-2467-2469-2471-2473-2475-2477-2479-2481-2483-2485-2487-2489-2491-2493-2495-2497-2499-2501-2503-2505-2507-2509-2511-2513-2515-2517-2519-2521-2523-2525-2527-2529-2531-2533-2535-2537-2539-2541-2543-2545-2547-2549-2551-2553-2555-2557-2559-2561-2563-2565-2567-2569-2571-2573-2575-2577-2579-2581-2583-2585-2587-2589-2591-2593-2595-2597-2599-2601-2603-2605-2607-2609-2611-2613-2615-2617-2619-2621-2623-2625-2627-2629-2631-2633-2635-2637-2639-2641-2643-2645-2647-2649-2651-2653-2655-2657-2659-2661-2663-2665-2667-2669-2671-2673-2675-2677-2679-2681-2683-2685-2687-2689-2691-2693-2695-2697-2699-2701-2703-2705-2707-2709-2711-2713-2715-2717-2719-2721-2723-2725-2727-2729-2731-2733-2735-2737-2739-2741-2743-2745-2747-2749-2751-2753-2755-2757-2759-2761-2763-2765-2767-2769-2771-2773-2775-2777-2779-2781-2783-2785-2787-2789-2791-2793-2795-2797-2799-2801-2803-2805-2807-2809-2811-2813-2815-2817-2819-2821-2823-2825-2827-2829-2831-2833-2835-2837-2839-2841-2843-2845-2847-2849-2851-2853-2855-2857-2859-2861-2863-2865-2867-2869-2871-2873-2875-2877-2879-2881-2883-2885-2887-2889-2891-2893-2895-2897-2899-2901-2903-2905-2907-2909-2911-2913-2915-2917-2919-2921-2923-2925-2927-2929-2931-2933-2935-2937-2939-2941-2943-2945-2947-2949-2951-2953-2955-2957-2959-2961-2963-2965-2967-2969-2971-2973-2975-2977-2979-2981-2983-2985-2987-2989-2991-2993-2995-2997-2999-3001-3003-3005-3007-3009-3011-3013-3015-3017-3019-3021-3023-3025-3027-3029-3031-3033-3035-3037-3039-3041-3043-3045-3047-3049-3051-3053-3055-3057-3059-3061-3063-3065-3067-3069-3071-3073-3075-3077-3079-3081-3083-3085-3087-3089-3091-3093-3095-3097-3099-3101-3103-3105-3107-3109-3111-3113-3115-3117-3119-3121-3123-3125-3127-3129-3131-3133-3135-3137-3139-3141-3143-3145-3147-3149-3151-3153-3155-3157-3159-3161-3163-3165-3167-3169-3171-3173-3175-3177-3179-3181-3183-3185-3187-3189-3191-3193-3195-3197-3199-3201-3203-3205-3207-3209-3211-3213-3215-3217-3219-3221-3223-3225-3227-3229-3231-3233-3235-3237-3239-3241-3243-3245-3247-3249-3251-3253-3255-3257-3259-3261-3263-3265-3267-3269-3271-3273-3275-3277-3279-3281-3283-3285-3287-3289-3291-3293-3295-3297-3299-3301-3303-3305-3307-3309-3311-3313-3315-3317-3319-3321-3323-3325-3327-3329-3331-3333-3335-3337-3339-3341-3343-3345-3347-3349-3351-3353-3355-3357-3359-3361-3363-3365-3367-3369-3371-3373-3375-3377-3379-3381-3383-3385-3387-3389-3391-3393-3395-3397-3399-3401-3403-3405-3407-3409-3411-3413-3415-3417-3419-3421-3423-3425-3427-3429-3431-3433-3435-3437-3439-3441-3443-3445-3447-3449-3451-3453-3455-3457-3459-3461-3463-3465-3467-3469-3471-3473-3475-3477-3479-3481-3483-3485-3487-3489-3491-3493-3495-3497-3499-3501-3503-3505-3507-3509-3511-3513-3515-3517-3519-3521-3523-3525-3527-3529-3531-3533-3535-3537-3539-3541-3543-3545-3547-3549-3551-3553-3555-3557-3559-3561-3563-3565-3567-3569-3571-3573-3575-3577-3579-3581-3583-3585-3587-3589-3591-3593-3595-3597-3599-3601-3603-3605-3607-3609-3611-3613-3615-3617-3619-3621-3623-3625-3627-3629-3631-3633-3635-3637-3639-3641-3643-3645-3647-3649-3651-3653-3655-3657-3659-3661-3663-3665-3667-3669-3671-3673-3675-3677-3679-3681-3683-3685-3687-3689-3691-3693-3695-3697-3699-3701-3703-3705-3707-3709-3711-3713-3715-3717-3719-3721-3723-3725-3727-3729-3731-3733-3735-3737-3739-3741-3743-3745-3747-3749-3751-3753-3755-3757-3759-3761-3763-3765-3767-3769-3771-3773-3775-3777-3779-3781-3783-3785-3787-3789-3791-3793-3795-3797-3799-3801-3803-3805-3807-3809-3811-3813-3815-3817-3819-3821-3823-3825-3827-3829-3831-3833-3835-3837-3839-3841-3843-3845-3847-3849-3851-3853-3855-3857-3859-3861-3863-3865-3867-3869-3871-3873-3875-3877-3879-3881-3883-3885-3887-3889-3891-3893-3895-3897-3899-3901-3903-3905-3907-3909-3911-3913-3915-3917-3919-3921-3923-3925-3927-3929-3931-3933-3935-3937-3939-3941-3943-3945-3947-3949-3951-3953-3955-3957-3959-3961-3963-3965-3967-3969-3971-3973-3975-3977-3979-3981-3983-3985-3987-3989-3991-3993-3995-3997-3999-4001-4003-4005-4007-4009-4011-4013-4015-4017-4019-4021-4023-4025-4027-4029-4031-4033-4035-4037-4039-4041-4043-4045-4047-4049-4051-4053-4055-4057-4059-4061-4063-4065-4067-4069-4071-4073-4075-4077-4079-4081-4083-4085-4087-4089-4091-4093-4095-4097-4099-4101-4103-4105-4107-4109-4111-4113-4115-4117-4119-4121-4123-4125-4127-4129-4131-4133-4135-4137-4139-4141-4143-4145-4147-4149-4151-4153-4155-4157-4159-4161-4163-4165-4167-4169-4171-4173-4175-4177-4179-4181-4183-4185-4187-4189-4191-4193-4195-4197-4199-4201-4203-4205-4207-4209-4211-4213-4215-4217-4219-4221-4223-4225-4227-4229-4231-4233-4235-4237-4239-4241-4243-4245-4247-4249-4251-4253-4255-4257-4259-4261-4263-4265-4267-4269-4271-4273-4275-4277-4279-4281-4283-4285-4287-4289-4291-4293-4295-4297-4299-4301-4303-4305-4307-4309-4311-4313-4315-4317-4319-4321-4323-4325-4327-4329-4331-4333-4335-4337-4339-4341-4343-4345-4347-4349-4351-4353-4355-4357-4359-4361-4363-4365-4367-4369-4371-4373-4375-4377-4379-4381-4383-4385-4387-4389-4391-4393-4395-4397-4399-4401-4403-4405-4407-4409-4411-4413-4415-4417-4419-4421-4423-4425-4427-4429-4431-4433-4435-4437-4439-4441-4443-4445-4447-4449-4451-4453-4455-4457-4459-4461-4463-4465-4467-4469-4471-4473-4475-4477-4479-4481-4483-4485-4487-4489-4491-4493-4495-4497-4499-4501-4503-4505-4507-4509-4511-4513-4515-4517-4519-4521-4523-4525-4527-4529-4531-4533-4535-4537-4539-4541-4543-4545-4547-4549-4551-4553-4555-4557-4559-4561-4563-4565-4567-4569-4571-4573-4575-4577-4579-4581-4583-4585-4587-4589-4591-4593-4595-4597-4599-4601-4603-4605-4607-4609-4611-4613-4615-4617-4619-4621-4623-4625-4627-4629-4631-4633-4635-4637-4639-4641-4643-4645-4647-4649-4651-4653-4655-4657-4659-4661-4663-4665-4667-4669-4671-4673-4675-4677-4679-4681-4683-4685-4687-4689-4691-4693-4695-4697-4699-4701-4703-4705-4707-4709-4711-4713-4715-4717-4719-4721-4723-4725-4727-4729-4731-4733-4735-4737-4739-4741-4743-4745-4747-4749-4751-4753-4755-4757-4759-4761-4763-4765-4767-4769-4771-4773-4775-4777-4779-4781-4783-4785-4787-4789-4791-4793-4795-4797-4799-4801-4803-4805-4807-4809-4811-4813-4815-4817-4819-4821-4823-4825-4827-4829-4831-4833-4835-4837-4839-4841-4843-4845-4847-4849-4851-4853-4855-4857-4859-4861-4863-4865-4867-4869-4871-4873-4875-4877-4879-4881-4883-4885-4887-4889-4891-4893-4895-4897-4899-4901-4903-4905-4907-4909-4911-4913-4915-4917-4919-4921-4923-4925-4927-4929-4931-4933-4935-4937-4939-4941-4943-4945-4947-4949-4951-4953-4955-4957-4959-4961-4963-4965-4967-4969-4971-4973-4975-4977-4979-4981-4983

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

site-officer---permits-are-not-transferable-and-must-be-in-possession
while-hunting---the-permit-must-be-retained-and-harvest-reported-by
February-15-or-hunter-will-lose-hunting-privileges-for-that-site
for-the-following-year are 12 noon to 5 p.m. daily September 1-5;
season closes September 30; when daily hunter quotas are exceeded, a
drawing will be held at 11 a.m. to fill these quotas.

Banner Marsh Fish and Wildlife Area

Bayle---Creek---State---Park---(Season-dates-are-September
15---October-30)

Fox-Ridge-State-Park-(does-not-apply-in-dove-management
units-as-noted-in-Section-730-20(f))

Heidecke State Fish and Wildlife Area

Hennepin Canal State Park (#)

Hidden---Springs---State---Forest-(does-not-apply-in-dove
management-units-as-noted-in-Section-730-20(f))

Iroquois County Wildlife Management Area (#)

Johnson Sauk Trail State Park

Lake-Sheboyville-Bayle-Creek-Wildlife-Management-Area

Matthiessen State Park (#)

Maulino Fish and Wildlife Area (#)

Morrison Rockwood State Park

Pyramid State Park (#)

Sanganolis State Fish and Wildlife Area

Snake Den Hollow Fish and Wildlife Area

et Permitt-areas

- 1) Permits-season-dates-shall-be-September-1---5-at-the-following
sites---hunting-hours-shall-be-from Noon-to-5:00-p.m.--(exceptions
in-parenthesis):
 Bee-Plaines-Conservation-Area-(Hunters-must-hunt-assigned
 fields-only-and-hunt-within-10-feet-of-BGE-marked-sites-no
 gun-may-be-carried-into-dove-field-beyond-shooting-liner
 guns-must-be-unloaded-when-waiting-to-and-from-hunting-area)

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

Green-River---State-Wildlife-Area---(See-County-Conservation
Area)

Kankakee-River-State-Park-(Hunters-must-hunt-assigned-fields
only-and-hunt-within-10-feet-of-BGE-marked-sites-no-gun-may
be-carried-into-dove-field-beyond-shooting-liner)

Mackinaw-River-State-Fish-and-Wildlife-Area

Rating-River---State-Park-(Hunters-must-hunt-assigned-fields
only-and-hunt-within-10-feet-of-BGE-marked-sites-no-gun-may
be-carried-into-dove-field-beyond-shooting-liner-no-shooting
except-at-designated-sites)

Sandwich-Bayle-Creek-(Hunters-must-hunt-assigned-fields
only)-field-2-miles-south-of-BGE-marked-sites-no-gun-may-be-carried
into-dove-field-beyond-shooting-liner-hunters-must-hunt-from
within-10-feet-of-BGE-marked-sites)

Siber-Spring-State-Park-(Hunters-must-hunt-assigned-fields
only-and-hunt-within-10-feet-of-BGE-marked-sites-no-gun
may-be-carried-into-dove-field-beyond-shooting-liner-no
guns-be-carried-within-10-feet-of-BGE-marked-sites)

State-Mathews---Must-hunt-assigned-sites-only-Hunters-must
be-assigned-to-hunt-on-the-same-day-as-the-BGE-marked-sites
check-in-time-no-gun-may-be-carried-into-dove-field-beyond
shooting-liner-hunters-must-hunt-from-BGE-marked-sites
BGE-marked-sites-only)

2) Permitt-applications

Applications-must-be-processed-by-the-Department-of-Conservation
reservations-Saturday-evening-and-Sunday-morning-10:00-a.m.-
with-one-hour-advance-notice-Saturday-evening-10:00-a.m.-
one-hour-advance-notice-Sunday-morning-10:00-a.m.-one-hour-
advance-notice-may-be-made-by-mail-or-by-personal-delivery
person-with-no-advance-notice-for-the-season
right-to-appoint-a-representative-for-the-season
Hunting-at-these-sites-is-by-BGE-marked-sites-only-for-the
five-days-of-the-season-the-sites-are-BGE-marked-sites-for
hunting-at-these-sites-at-Bee-Plaines-Mackinaw-River
Springfield-and-no-from-the-area

Green-River---Regulations-shall-be-the-same-as-for-the-
H-00-area-Openings-are-at-10:00-a.m.-at-Bee-Plaines-More
fish-one-baby-one-by-mail-or-by-mail-one-baby-one

stand-by-hunters-must-hunt-on-Bee-Plaines-More
5) At-hunters-must-hunt-on-Bee-Plaines-More
6) Shot-stations-are-at-10:00-a.m.-at-Bee-Plaines-More
7) Back-applications-shall-be-at-10:00-a.m.-at-Bee-Plaines-More

DEPARTMENT OF CONSERVATION

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~~permit-per-year--An applicant may reapply only if his previous application was unsuccessful.~~

- e) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-5; when daily hunter quotas are exceeded, a drawing will be held at 11 a.m. to fill these quotas:

Anderson Lake Conservation Area

Big Bend State Fish and Wildlife Area (#)

Big River State Forest

Carlyle Lake Wildlife Management Area (#)

Chain O'Lakes State Park (closes September 5) (#)

Eldon Hazlet State Park (#)

Lake Shelbyville - Kaskaskia Wildlife Management Area (Dove Management Fields Only)

Marseilles Wildlife Area (After Labor Day, site is closed on Fridays, Saturdays, and Sundays through October) (#)

Middlefork Fish and Wildlife Management Area (Dove Management Fields Only)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

Peabody River King State Fish and Wildlife Area (#)

Pike County Conservation Area (#)

Turkey Bluffs State Fish and Wildlife Area (#)

Weinberg-King State Park (#)

- f) Statewide regulations as provided for in this Part shall apply at the following sites, except that hunting hours are 12 noon to 5 p.m. daily September 1-30; when daily hunter quotas are exceeded, a drawing will be held at 11:00 a.m. to fill these quotas:

Lake Le Aqua Na State Park (#)

Red Hills State Park (#)

DEPARTMENT OF CONSERVATION

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Jubilee College State Park

Shabbona Lake State Park (#)

Siloam Springs State Park (#)

Wayne Fitzgerald State Recreation Area (season opens day after Labor Day)

- g) Statewide regulations apply except that hunting hours are 12 noon to 5 p.m. from September 1-5; hunters must obtain a free permit from the Department; permits must be in possession while hunting on the site. Permit must be returned and harvest reported by February 15 or hunter will forfeit hunting privileges for that site for the following season.

Kickapoo State Park

Lake Shelbyville - Eagle Creek State Park (season opens day after Labor Day)

Lake Shelbyville - Eagle Creek Wildlife Management Area

Lake Shelbyville - Kaskaskia Wildlife Management Area (except Dove Management Unit)

Middlefork Fish and Wildlife Area (except Dove Management Units)

- h) Sites participating in approved research project to study effects of hunting hours on dove harvest. Check in and check out to report harvest is required. When daily hunter quotas are exceeded, a drawing will be held at 11:00 a.m. to fill quotas at sites that begin hunting at 12 noon and 1/2 hour before sunrise at sites that begin hunting at sunrise. Sites and research hunting hours are listed below:

1) Hunting hours are sunrise to 12 noon

Fox Ridge State Park

Hamilton County Fish and Wildlife Area

Kaskaskia River State Fish and Wildlife Area

Lake Shelbyville - West Okaw Wildlife Management Area

Mernett Lake Fish and Wildlife Area

Ramsey Lake State Park

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Union County Conservation Area (season closes October 15)2) Hunting hours are 12 noon to 5:00 p.m.Clinton Lake State Recreation AreaGiant City State ParkHidden Springs State ForestI-24 Wildlife Management AreaMt. Vernon Game Propagation CenterRandolph County Conservation AreaSam Parr Fish and Wildlife Area3) Hunting hours are sunrise to 5:00 p.m.Crawford County Fish and Wildlife AreaHorseshoe Lake Conservation Area (season closes October 15)Moraine View State ParkSaline County Fish and Wildlife AreaSam Dale Lake Fish and Wildlife AreaStephen A. Forbes State ParkWashington County Conservation Areai) Permit Areas1) Permit Season Regulations

A) Permit season dates shall be September 1-5 and hunting hours are 12 noon to 5:00 p.m. at the sites listed at the end of this subsection.

B) Permit Applications

Applicants must contact the Department to obtain a permit reservation. Starting dates and methods for making reservation will be publicly announced. Applicants making reservations will be sent confirmation. Up to six (6) reservations, but only one per applicant, may be made. Multiple reservations for the same person will not be accepted; further, persons attempting to make multiple reservations will forfeit the privilege to obtain a

DEPARTMENT OF CONSERVATION

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reservation for that season.

C) Each person may apply for only one area and receive one permit per season. An applicant may reapply only if his previous application was unsuccessful.

D) Hunting at these areas is by special permit only for the first five days of the season; thereafter, no permits are required for hunting these sites, except at Site M as indicated in subsection (i)(3). All permits will be issued from Springfield and not from the site, except at Site M as indicated in subsection (i)(3).

E) Check in time for registration shall be between 9 a.m. and 11 a.m. each day. Openings after 11 a.m. will be filled by drawing for standbys if more hunters register than there are vacancies.

F) All hunters must wear an IDOC issued backpatch.

2) Non-Permit Season Regulations

A) Non-permit season shall be September 6-30 except as indicated in parentheses.

B) Non-permit hunting hours shall be 12 noon - sunset except as indicated in parentheses.

C) No permits are required except as indicated in parentheses.

D) Check in and check out is required except as indicated in parentheses.

E) Hunter quotas will be filled on a first come first served basis.

3) Sites

Des Plaines Conservation Area (non-permit hunting hours are 12 noon - 5 p.m.)

Green River State Wildlife Area/Kaecker Sand Prairie Habitat Area (non-permit hunting hours are sunrise - sunset)

Horseshoe Lake State Park (Madison County) (non-permit hunting hours are 12 noon - 5 p.m.)

Kankakee River State Park

Mackinaw Fish and Wildlife Area

Railsplitter State Park

Sangchris Lake State Park

Silver Springs State Park (closed during National Hunting and Fishing Day Weekend)

Site M (non-permit season closes October 30; non-permit hunting hours are sunrise to sunset; during non-permit

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season, a season long permit is required as indicated in subsection (g); check-in and check-out are not required).

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 730.30 Youth and Youth/Adult Dove Hunts at Various Department-Owned or -Managed Sites

- a) A one-day Youth Dove Hunt will be held the first Saturday in September at the following sites:

Horseshoe Lake State Park (Madison County)

~~Kankakee River State Park~~

Ramsey Lake State Park

Sangchris Lake State Park

Silver Springs State Park

Stephen A. Forbes State Park

- b) A one-day youth/adult dove hunt will be held the first Saturday in September where both the youth and adult will be permitted to hunt at the following sites:

~~Kankakee River State Park~~

Mackinaw River State Fish and Wildlife Area

Mt. Vernon Game Farm

Sam Parr State Park

- c) Hunting hours are from 12:00 p.m. to 5:00 p.m. Check-in time is from 10:00 a.m. to 11:00 a.m.

- d) Hunter quota will be announced by public news release. Hunter quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available; the condition, topography, and configuration of the land at the site; and the number of employees available to work at the site.

- e) All hunters must have a hunting permit and wear a back patch while hunting. Stand-by permits will be available at the site by lottery drawing if vacancies occur.

- f) Applicants must be between the ages of 10 and 15 inclusive, with a valid Illinois hunting license.

- g) Each youth must be accompanied by a supervising adult. If the hunter

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does not have a valid Firearm Owner's Identification (F.O.I.D.) Card, the supervising adult is required to have a F.O.I.D. Card. Only one supervising adult in a hunting party is required to have a valid F.O.I.D. Card if the hunters in the hunting party stay under the immediate control (accompany youth hunters at all times) of the supervising adult possessing the valid F.O.I.D. Card. All adult hunters must have a valid F.O.I.D. card.

- h) Applicants must contact the Department to obtain a permit reservation. Starting dates and methods for making reservations will be publicly announced. Applicants making reservations will be sent confirmation. Up to six reservations, but only one per applicant, may be made. Multiple reservations for the same person will not be accepted and that person will forfeit his right to acquire a reservation for the season.

- i) Shot size to be used is 7 1/2, 8 or 9 lead or 6 steel or smaller.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Squirrel Hunting

2) Code Citation: 17 Ill. Adm. Code 690

3) Section Numbers:
690.30 Proposed Action:
Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5].

5) A complete description of the subjects and issues involved:
This Part is being amended to standardize squirrel hunting hours and regulations.

6) Will this proposed rule replace an Emergency Rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of statewide policy objectives: This rule has no impact on local governments.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Conservation
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis: This rule does not affect small businesses.

13) State reason(s) for this rulemaking if it was not included in either of the two (2) most recent Regulatory Agendas: Included in Regulatory Agenda submitted for period 1/1/95-6/30/95

The full text of the proposed amendments begins on the next page:

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF CONSERVATION

SUBCHAPTER b: FISH AND WILDLIFE

PART 690
SQUIRREL HUNTING

Section
690.10 Hunting Seasons
690.20 Statewide Regulations
690.30 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.28 and 3.5].

SOURCE: Adopted at 5 Ill. Reg. 8017, effective July 24, 1981; codified at 5 Ill. Reg. 10642; emergency amendment at 5 Ill. Reg. 11382, effective October 14, 1981, for a maximum of 150 days; amended at 6 Ill. Reg. 9642, effective July 21, 1982; amended at 7 Ill. Reg. 8809, effective July 15, 1983; emergency amendment at 7 Ill. Reg. 9690, effective August 1, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 16789, effective August 30, 1984; amended at 9 Ill. Reg. 11614, effective July 16, 1985; amended at 10 Ill. Reg. 15601, effective September 16, 1986; amended at 11 Ill. Reg. 9549, effective May 5, 1987; amended at 12 Ill. Reg. 12246, effective July 15, 1988; amended at 13 Ill. Reg. 10606, effective June 15, 1989; amended at 14 Ill. Reg. 10816, effective June 20, 1990; amended at 15 Ill. Reg. 10012, effective June 24, 1991; amended at 16 Ill. Reg. 11087, effective June 30, 1992; amended at 17 Ill. Reg. 10842, effective July 1, 1993; amended at 18 Ill. Reg. 8624, effective May 31, 1994; amended at 19 Ill. Reg. _____, effective _____.

Section 690.30 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510, General Hunting and Trapping on Department-Owned or Managed Sites, apply in this Part, unless this Part is more restrictive.
- b) ~~Only those sites listed in this Section marked with an asterisk (*) allow hunting with .22 caliber rimfire firearms or muzzle-loading black powder rifles. Hunting with .22 caliber rimfire firearms or muzzle-loading black powder rifles is allowed at those sites listed in the following subsections that are followed by a (1).~~
~~Statewide season regulations shall apply at the following sites except those listed in parentheses: Check-in, check-out and reporting of harvest is required at those sites listed in the following subsections that are followed by a (2).~~
- d) ~~Statewide regulations apply at the following sites:~~
~~Anderson Lake Conservation Area (2)~~

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Argyle Lake State Park (2)

Big Bend Conservation State Fish and Wildlife Area (2)

Big River State Forest (2)

* Cache River State Natural Area (1)

* Campbell Pond Wildlife Management Area

* Carlyle Lake Lands and Waters - Corps of Engineers managed lands (1)

* Carlyle Lake Wildlife Management Area ~~(in--the--waterfowl Management Area--from--opening--day--to--9--days--before--the--waterfowl season)~~ (subinpondment area closed 7 days prior to and during the southern zone waterfowl season) (1)

Chain O'Lakes State Park (Opens Wednesday after permit pheasant season for 5 consecutive days, except closed on Christmas Day; 8:00 a.m. to 4:00 p.m.; daily quota filled on first-come, first-served basis; DOC issued back patch must be worn while hunting; only shot size of No. 5 lead or No. 3 steel or smaller may be used (2)

* Crawford County Conservation Area (1) (2)

* Dog Island Wildlife Management Area (1) (2)

Edon Hazlet State Park (north of Allen Branch (2); and west of Pepperhorst Branch--north--of--Allen--Branch--only--has--a--check station only)

Perne Cliffs State Park (2)

* Fort de Chartres Historic Site (hunting--with--muzzleloading firearms or bow and arrow only) (1) (2)

Fort Massac State Park ~~feast-of-Massac-Creek-only~~ (2)* Green-River-State-Wildlife-Area ~~(Lee--County--Conservation--Area)~~ (September-6---October-31)

I-24 Wildlife Management Area (2)

* Kaskaskia River State Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed 37 days prior to and during duck season) (1) (2)

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Kidd Lake State Natural Area

* Kinkaid Lake Fish and Wildlife Area (1)

* Lake-Sheboyville-Kaskaskia-and-West-Gate-Wildlife-Management-Area (no-handguns)

* Mackinaw-State-Fish-and-Wildlife-Area ~~(September-1---October-11)~~

* Marseilles Fish and Wildlife Area (Monday through Thursday from September--9 only through October 31; during August, hunting allowed west of E. 25th Road only) (2)

* Marshall State Fish and Wildlife Area (2)

* Mermet Lake Conservation Area ~~(from--opening--day--through--the--day before--the--opening--of--the--duck--season)~~ (1) (2)

* Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26)

* Mississippi River Pools 16, 17, 18, 217-227-247-257-26 (1)

* Mississippi River Pools 21, 22, 24 (1)

* Oakford Conservation Area (1)

* Panther Creek Conservation Area (1) (2)

* Pike County Conservation Area ~~(no-hunting--after--November--30--in Area A;--no-hunting--after--December--15--in Area B; closes November 30 in Area A; closes December 15 in Area C)~~ (1) (2)

* Ramsey-State-State-Park

* Randolph County Conservation Area (2)

Red Hills State Park (2)

* Rend Lake Project Lands and Waters (1)

* Saline County Conservation Fish and Wildlife Area ~~(North--of--the township--road)~~ (1) (2)

Sam Dale Lake Conservation Area (2)

* Sam Parr Fish-and-Wildlife-Area State Park (2)

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- * Sand Ridge State Forest--from opening day through the day--before the opening--of the rabbit hunting season, hunters must sign out at the hunter check station†
 - * Sangamon County Conservation Area (1)
 - * Sangamon County Conservation State Fish and Wildlife Area (1)
 - * Shawnee National Forest, Oakwood Bottoms (non-toxic shot only) (1)
 - * Site--M--parking is permitted at designated parking areas only; hunters must sign in and sign out at the hunter check station†
 - * Stephen A. Forbes State Park (2)
 - * Sunspot Mine (Pulmon and Schuyler Counties)†
 - * Tapley Woods State Natural Area (2)
 - * Ten Mile Creek State Fish and Wildlife Area--(permit--required; areas designated as refuge are closed to all access during Canada Goose--Season--only--permit--must--be--returned--by--February--15--to--District--Wildlife--Manager--P.O.--Box--3137--Olney--IL--62450†
 - * Trail of Tears State Forest (1)
 - * Turkey Bluffs State Fish and Wildlife Area (1) (2)
 - * Walnut Point Fish and Wildlife Area (2)
 - * Washington County Conservation Area (2)
 - * Weinberg-King State Park (1) (2)
 - * Wildcat Hollow State Forest (1)
 - * Witkowsky State Wildlife Area (season--opens--November--1--closes October 31) (2)
- dte) Season dates shall be the day following Labor Day to the end of the statewide season at the following sites:
- Perry-Clyffe State Park
 - Giant City State Park
 - Hamilton County Conservation Area (2)
 - Pere Marquette State Park (2)

DEPARTMENT OF CONSERVATION

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- Pyramid State Park (2)
 - Satine County Conservation Area--south of Township Road†
 - Siloam Springs State Park (2)
 - Weinut Point Fish and Wildlife Area--season--closes--October--31†
- e† The--following--season--dates--shall--apply--on--the--following--sites (exceptions to statewide hours are listed in parentheses):
- Castle Rock State Park--September 1--October 15
 - Chain O' Lakes State Park--opens--Wednesday--after--state--consent season--for--five--consecutive--days--except--October--2--October--3--at 9:00 a.m.--to--4:30 p.m.--Hunters must check in and check out daily quota--filled--in--line--come--to--state--serve--season--300--season--back--patron--must--be--warn--when--hunting--only--state--serve--season--head--of--No--3--steel--drum--may--be--used†
 - * Horseshoe Lake--Conservation Area--Alexander County--Public--Goose Hunting--Area--August--1--October--15--other--portions--of--Public Hunting Area open during statewide season
 - Itasca County Conservation Area--September 1--30
 - Johnson-Sauk State Park--September 16--30
 - Juillet College State Park--September 1--30--(Sunrise--4:00 p.m.†)
 - Kankakee River State Park--September 1--30
 - Mosinee--Vireo--State--Park--September 1--day--before--opening--of state's permit--season--(Sunrise--4:00 p.m.†)
 - Silver Springs State Park--September 1--30--in--Areas--B--and--C--hunted--must--be--reported--before--starting--the--state--daily--quota--filled--on--first--comer--12:15--state--bars†
 - Spring Lake--Conservation Area--September 10--30--(Sunrise--4:00 p.m.†)
 - * Union County--Conservation Area--Public--Goose--Hunting Area--August 1--October 15--other--portions--of--Public--Hunting Area open during statewide season
 - Woodford County--Conservation Area--September 1--30
- e† Statewide regulations as provided in this Part apply at the following sites--with--exceptions--noted--in--parentheses--in--addition--hunters--must

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obtain--a--free--permit--from--site--officer---Permits--must--be--in--possession
while--hunting---the--permit--must--be--returned--and--harvest--reported--by
February--15--or--hunter--will--forfeit--hunting--privileges--for--that--ate
for--the--following--year.

* Chauncey Marsh (permit may be obtained at Red Hills State Park
Headquarters; no hunting in dedicated Nature Preserve)

Clinton Lake State Park

Eagle Creek State Park (season opens September 15)

* Fox Ridge State Park (no handguns)

* Hidden Springs State Forest (22 rimfire rifles--and
muzzle-loading rifles--permitted after October 1 only; no
handguns)

* Kickapoo State Park

* Lake Shelbyville - Eagle Creek Wildlife Management Area (no
handguns)

Middle Fork Fish and Wildlife Area

Mt. Vernon Game Propagation Center (August 1-September 30; sunrise to
1200 Noon; site permit required; report by October 15 or lose
hunting privileges the following year)

f) Season dates shall be the day after Labor Day to September 30 at the
following sites:

Johnson-Sauk Trail State Park (2)

Jubilee College State Park (2)

Kankakee River State Park (2)

Silver Springs State Park (2)

Spring Lake Fish and Wildlife Area (2)

g) Statewide regulations apply at the following sites, except that
hunters must obtain a free permit from the Department and
variations in season dates are in parentheses. Permits must be in
possession while hunting. The permit must be returned and harvest
reported by February 15 or the hunter will forfeit privileges at that
site for the following year:

DEPARTMENT OF CONSERVATION

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Chauncey Marsh (permit may be obtained at Red Hills State Park
Headquarters (1))

Clinton Lake State Recreation Area

Fox Ridge State Park (1)

Hidden Springs State Forest (.22 rimfire firearms and
muzzleloading blackpowder rifles prohibited until October 1) (1)

Kickapoo State Park (season opens day after Labor Day)

Lake Shelbyville - Eagle Creek State Park

Lake Shelbyville - Eagle Creek Wildlife Management Area (1)

Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management
Area (1)

Middlefork Fish and Wildlife Area (season opens day after Labor
Day)

Moraine View State Park

Mt. Vernon Game Propagation Center (closes September 30)

Ramsey Lake State Park

Site M (the Quality Unit and Controlled Unit close October 31)
(1)

Ten Mile Creek Fish and Wildlife Area (1)

h) Season dates shall be statewide opening through September 30 at the
following sites:

Castle Rock State Park (2)

Iroquois County Wildlife Management Area (1) (2)

Mackinaw State Fish and Wildlife Area (2)

Woodford County Fish and Wildlife Area (2)

i) Season dates shall be statewide opening through October 31 at the
following sites:

Green River State Wildlife Area (2)

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Horseshoe Lake Conservation Area (season on the controlled goose hunting area shall close October 31, remainder of the public hunting area statewide season) (1)

Sand Ridge State Forest (closes October 31) (1) (2)

Union County Conservation Area (season on the controlled goose hunting area closes October 31; firing line unit - statewide closing) (1)

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Real Estate Appraiser Certification

2) Code Citation: 68 Ill. Adm. Code 1455

3) Section Numbers: Proposed Action:

1455.15 Amendment

1455.16 New Section

1455.200 Amendment

1455.210 Amendment

4) Statutory Authority: Article 2 of the Real Estate License Act of 1983 [225 ILCS 455/Art. 2].

5) A Complete Description of the Subjects and Issues Involved: Section 36.6(a)(7) of the Real Estate License Act of 1983 requires the Department of Professional Regulation to provide by rule for reasonable application and renewal fees for approval of pre-licensing education, pre-certification education and continuing education schools and instructors. These Proposed Amendments further implement that Section by expanding the fees Section to include renewal fees for pre-license/certification appraisal courses and for continuing education (CE) course approval. This rulemaking also requires all licensed appraisers who contribute to an appraisal report to sign the report. It also updates the incorporation by reference of the Uniform Standards of Professional Appraisal Practice (USPAP) from the 1994 to the 1995 version. Also provided are Illinois exceptions and supplemental standards to USPAP.

6) Will these Proposed Amendments replace an emergency Rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these Proposed Amendments contain incorporations by reference? Yes, the 1995 version of USPAP is cited.

9) Are there any other Proposed Amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable):

This rulemaking has no impact on local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may submit written comments to:

Department of Professional Regulation

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0800 Fax #: 217/782-7615

All written comments received within 45 days of this issue of the Illinois Register will be considered.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those businesses providing real estate appraisal services and any entity providing education for appraisers.
- B) Reporting, bookkeeping or other procedures required for compliance: An education provider may renew a pre-licensure/certification appraisal course for an additional 3 years by completing an application form and payment of a nonrefundable renewal fee of \$250. The renewal fee for applications received after the expiration date shall be \$300. Applications received 366 days or more after the expiration date shall not be renewed.

For CE courses, renewals are for 2 years and the fee is \$150. The renewal fee, if submitted after the expiration date, shall be \$200. Any application for CE course renewal received by the Department 366 days or more after the expiration date shall not be renewed. The applicant may submit a new application for approval of the course under a different course title.

C) Types of professional skills necessary for compliance:

Real Estate Appraiser skills are necessary for licensure.

- 13) State reason(s) for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

Notice of these Proposed Amendments was included in the January 1995 regulatory agenda.

The full text of the Proposed Amendment(s) begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1455

REAL ESTATE APPRAISER CERTIFICATION

SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

Section	Definitions
1455.10	Uniform Standards of Professional Appraisal Practice
1455.15	Jurisdictional Exceptions, Supplemental Standards
1455.16	Education and Experience Requirements for State Licensed Real Estate Appraiser
1455.20	Education and Experience Requirements for Certified Residential and Certified General Real Estate Appraiser
1455.30	Application as a State Licensed Real Estate Appraiser, Certified Residential Real Estate Appraiser or Certified General Real Estate Appraiser
1455.40	Examination
1455.50	Nonresident Licensure/Certification
1455.60	Nonresident Temporary Practice
1455.70	

SUBPART B: EDUCATION PROVIDERS

Section	Approval of Education Providers/Courses
1455.200	Appraiser Continuing Education (CE)
1455.205	Fees - Education Providers/Courses
1455.210	

SUBPART C: GENERAL

Section	Renewals
1455.300	Granting Variances
1455.310	

AUTHORITY: Implementing Article 2 of the Real Estate License Act of 1983 (225 ILCS 455/Art. 2) and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24,

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

1994; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: RESIDENTIAL AND GENERAL CERTIFICATION

Section 1455.15 Uniform Standards of Professional Appraisal Practice

- a) The 1995 Uniform Standards of Professional Appraisal Practice (USPAP), ~~promulgated~~ adopted July 1, 1995, by the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, 1994 are hereby incorporated by reference with no later amendments or editions.
- b) Real Estate Appraisers licensed/certified under the Act shall practice in accordance with USPAP standards except where the standard(s) is contrary to Illinois law or public policy (USPAP, Jurisdictional Exception). Supplemental standards applicable to appraisals for specific purposes or property types may be issued by public agencies and certain client groups (e.g., regulatory agencies, eminent domain authorities, asset managers and financial institutions), provided that such supplemental standard(s) does not diminish the purpose, intent or content of the requirements of the USPAP.
- c) A copy of ~~this publication~~ USPAP is available ~~at-cost~~ for inspection in ~~from~~ the Real Estate Appraisal Administrator's office, Department of Professional Regulation, located at 320 West Washington, Springfield, Illinois 62786 and may be purchased at cost from the Department, if available; and, is available for purchase from the Appraisal Standards Board of the Appraisal Foundation.

(Source: Amended at 19 Ill. Reg. _____, effective _____,)

Section 1455.16 Jurisdictional Exceptions/Supplemental Standards

All written appraisal reports developed in part or solely by an Illinois Licensed/Certified Appraiser shall identify all persons providing significant contributions to the analysis and conclusions. Each appraiser's Illinois license/certification number, designated title (State Licensed, Certified Residential, or Certified General Real Estate Appraiser) and date of license/certification expiration shall appear near each name in each place in the appraisal report and must appear near the name (and signature) on the appraisal certificate.

(Source: Added at 19 Ill. Reg. _____, effective _____,)

SUBPART B: EDUCATION PROVIDERS

Section 1455.200 Approval of Education Providers/Courses

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- a) An entity seeking approval as an appraisal education provider shall submit an application, on forms provided by the Department, and shall meet the following minimum criteria:
- 1) The provider shall:

- A) Maintain a fixed office that is adequate for the maintenance of all records, office equipment, files, telephone equipment and office space necessary for customer service;
- B) Offer a minimum of one curriculum that conforms to the standards of subsections (c) and (d) of this Section;
- C) Administer a mandatory final examination for each pre-license course offering;
- D) Provide each student within 21 days of completion of each course (or within 21 days of a request by a student or the Department), a certification of completion, transcript or other document verifying hours of attendance, successful course completion and identifying the course by name and number, if any. In addition, such certificate, transcript or other document shall indicate the provider's address and telephone number, the location and date of the course, and include an authorized signature of the course provider's representative. Documentation for CE courses may be in the form of a Uniform Request for Continuing Education, which is a form supplied by national appraisal organizations;
- E) Submit the fee(s) set forth in Section 1455.210;
- F) Comply with all applicable fire, building, zoning, health, safety and accessibility codes and standards pertaining to the premises, equipment and facilities of the course site;
- G) Provide the student with information which specifies the course of study to be offered; the tuition to be charged; the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship; any additional fee to be charged for supplies, materials or books which become the property of the student upon payment; and such other matters as are material to the relationship between the school and the student (e.g., cost of retaking a course, current status of licensure, any disciplinary action taken by the Department and attendance requirements);
- H) Maintain for each student a record which shall include the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be maintained by the school for a period of at least 7 years and shall be available for inspection by the student or by the Department or its designee during regular business hours; and
- I) Employ competent instructors.
 - i) Beginning December 31, 1993, instructors for courses in the IL IV and IL V curricula shall be Certified

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General Real Estate Appraisers or full time faculty members of a 4-year college or university.

- ii) Beginning December 31, 1993, instructors for courses in the IL I, IL II and IL III curricula shall be Certified Residential or Certified General Real Estate Appraisers or full time faculty members of a 4-year college or university.

- iii) For CE courses and courses in the IL E curriculum, instructors should be Certified Residential or General Real Estate Appraisers or persons with education and/or experience in appraisal or the subject matter of the course.

- 2) Approved course providers shall not advertise as being endorsed, recommended or accredited by the Department. Course providers may indicate that the provider and course of study have been approved by the Department.

- 3) Colleges and Universities

- A) Colleges and universities which apply as appraisal education providers under subsection (a)(1) above shall be accredited by the regional accrediting body and offer either or both an associate's and baccalaureate degree program.

- B) Colleges and universities will not be required to pay the application fees required by Section 1455.210.

- b) Appraisal Education Sub-Providers

- 1) Sub-organizations (such as chapters, branch schools and local associations) may seek CE course approval (licensure) under the appraisal education provider's license of the parent organization. Such sub-providers may not seek approval for pre-licensure appraisal courses. Sub-providers may offer pre-licensure courses as a co-sponsor with the parent provider.

- 2) Sub-organizations need not apply to the Department to become an approved CE course provider but may seek course approval under the provider's license of the parent organization.

- A) A sub-provider need not comply with (A), (C), (D) or (H) of subsection (a)(1) of this Section.

- B) The license of the parent organization may not be jeopardized or disciplined as a result of the actions of the sub-provider.

- 3) The appraisal education sub-provider, on each application for CE course approval, must certify:

- A) The sub-organization has reviewed the CE course and approves the course content;

- B) The sub-organization is an authorized affiliate of the parent organization;

- C) The parent organization has given the sub-organization permission to seek course approval (licensure) under the umbrella of the parent organization's provider's license; or, that the parent organization will recognize the course

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for CE credit within its own CE program.

- 4) Each CE course sub-provider shall issue to each registered student a certificate of attendance that shall indicate the student's name, social security number or appraiser license/certification number, the date(s) and location of the course, the signature of an authorized representative of the sub-provider and a statement that the student did or did not attend a minimum of 90% of the course. A certificate of attendance may be in the form of a course attendance diploma, a certification letter, an official transcript or a "Uniform Request for Continuing Education Credit".

- 5) Within twenty-one (21) days after completion of each CE course presentation, the sub-provider shall certify to the Department, Office of the Appraisal Administrator, a roster of all duly registered students. The certification shall be on forms provided by the Department and shall include:

- A) The CE course license number;
B) The license number of the parent provider;
C) The date(s) and location of the CE presentation;
D) The name of the instructor(s);
E) A listing of students by full name, appraiser license/certification number (or social security number) and an indication that the student did or did not attend a minimum of 90% of the course (the names shall be listed in alphabetical order); and
F) The authorized signature of a representative of the sub-organization.

- c) Required Pre-License/Certification Course Curriculum

- 1) Standards of Professional Appraisal Practice--15 hours (IL I). This course curriculum reviews USPAP adopted by the Appraisal Subcommittee. Topics are:

- A) Ethics Provision - USPAP
B) Competency Provision - USPAP
C) Departure Provision - USPAP
D) Standard 1 - USPAP
E) Standard 2 - USPAP
F) Standard 3 - USPAP
G) Standard 4 - USPAP
H) Standard 5 - USPAP
I) Standard 6 - USPAP

- 2) Basic Principles of Appraisal--30 hours (IL II). This course curriculum shall include an overview of the appraisal process covering the principles of market and valuation analysis necessary for appraising real property and an introduction to appraisal theory, concepts, techniques and the level of competence required to perform professional appraisal analyses. Topics are:

- A) Influences on Real Estate

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- B) Real Estate/Real Property/Personal Property
- C) Real Estate Ownership
- D) Legal Descriptions
- E) Types of Value
- F) Economic Principles
- G) Real Estate Markets and Market Analysis
- H) Money and Capital Markets
- I) Real Estate Financing
- J) Valuation Process
- K) Neighborhood Data and Analysis
- L) Site Data and Analysis
- M) Improvement Data and Analysis
- N) Basic Construction and Design
- O) Highest and Best Use Analysis
- P) Sources of Valuation Data
- Q) Accumulation of Valuation Data
- R) Overview of the Three Approaches to Value
- S) Reconciliation and Final Value Estimate
- T) Overview of the Appraisal Report

3) Residential Valuation Procedures/Single Family Appraisal--30 hours (IL III). This course curriculum shall be designed to provide an understanding and working knowledge of the procedures and techniques required to estimate the market value of residential properties. Emphasis should be placed on the extraction of data and the correct application of the three approaches to real estate valuation. Topics are:

- A) Basic Statistics
- B) Residential Site Valuation - Sales Comparison
- C) Residential Site Valuation - Allocation
- D) Residential Site Valuation - Extraction
- E) Cost Approach - Cost New Estimates
- F) Cost Approach - Entrepreneurial Profit
- G) Cost Approach - Types of Depreciation
- H) Cost Approach - Depreciation - Age-Life Method
- I) Cost Approach - Depreciation - Market Extraction Method
- J) Cost Approach - Depreciation - Breakdown Method
- K) Cost Approach - Application
- L) Sales Comparison Approach - Units of Comparison
- M) Sales Comparison Approach - Elements of Comparison
- N) Sales Comparison Approach - Cash Equivalency
- O) Sales Comparison Approach - Making Adjustments
- P) Sales Comparison Approach - Application
- Q) Income Capitalization Approach - Gross Rent Estimates
- R) Income Capitalization Approach - Gross Rent Multiplier
- S) Income Capitalization Approach - Application
- T) Residential Appraisal Reports

4) Valuation Procedures, Nonresidential Properties--30 hours (IL IV). This course curriculum focuses on the appraisal of

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nonresidential properties and provides a practical solution for estimating value by an in-depth study of appraisal theory and the development of advanced valuation skills. Topics are:

- A) Basic Statistics
- B) Site Valuation - Sales Comparison
- C) Site Valuation - Allocation/Extraction
- D) Site Valuation - Subdivision Analysis/Other Methods
- E) Cost Approach - Cost New Estimates
- F) Cost Approach - Entrepreneurial Profit
- G) Cost Approach - Types of Depreciation
- H) Cost Approach - Depreciation - Age-Life Method
- I) Cost Approach - Depreciation - Market Extraction Method
- J) Cost Approach - Depreciation - Breakdown Method
- K) Cost Approach - Application
- L) Sales Comparison Approach - Units of Comparison
- M) Sales Comparison Approach - Elements of Comparison
- N) Sales Comparison Approach - Cash Equivalency
- O) Sales Comparison Approach - Making Adjustments
- P) Sales Comparison Approach - Application
- Q) Income Approach - Income Estimates
- R) Income Approach - Expense Estimates
- S) Income Approach - Capitalization Rates
- T) Income Approach - Direct Capitalization
- U) Income Approach - Income Multipliers
- V) Income Approach - Application
- W) Appraisal Reports

5) Income Capitalization--30 hours (IL V). Courses in this curriculum are to provide alternative methods of estimating present value based on income forecasts. There courses focus on more advanced capitalization methods and techniques. Topics include:

- A) Six Functions of SI
- B) Gross Income Estimates
- C) Vacancy and Collection Loss
- D) Operating Expense Estimates
- E) Reserves for Replacement
- F) Operating Statement Ratios and Multipliers
- G) Debt Service/Equity Dividend
- H) Direct Capitalization
- I) Overall Rate Development - Market Extraction
- J) Overall Rate Development - Band of Investment
- K) Overall Rate Development - Ratios/Multipliers
- L) Overall Rate Development - Residual Techniques
- M) Equity Dividend Rate
- N) Debt Coverage Ratio
- O) Cash Flow Estimates
- P) Reversion Estimates
- Q) Discount and Yield Rates

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- R) Yield Capitalization Overview
- S) Discounted Cash Flow Analysis Overview
- T) Lease Provisions, Analysis and Valuation
- U) Lease Analysis
- V) Partial Interest Valuation

6) Courses in the IL E curriculum (electives) are courses with topics that are considered more advanced; and/or cover appraisal topics not covered in the core course curricula. Credit for elective hours can be achieved by successful completion of courses approved in the IL E curriculum or by successful completion of courses with excess hours approved and allocated for elective credit in accordance with subsection (c)(9) of this Section.

7) Each pre-licensure/certification course shall be a minimum of 15 credit hours.

8) All pre-licensure/certification courses shall include a final examination.

A) Each final exam for curricula IL II, IL III, IL IV, IL V and IL E (elective) courses shall consist of a minimum of 50 questions; however, courses approved for 15 hours credit may have a final examination with 25 questions.

B) The final exam for IL I courses shall consist of a minimum of 25 questions.

C) The applicant shall pass the examination in order to obtain credit for a course. A passing score shall be a minimum of 70% of examination questions answered correctly.

9) If 80% of the required topics for IL II through IL V courses are presented, the course shall be approved for the minimum required hours. Two 15 hour courses from a single provider may be approved to meet a 30 hour curriculum requirement, provided the courses together cover a minimum of 80% of the required curriculum topics. An application for one 15 hour course in a curriculum requiring 30 hours will be denied. For courses in the IL I curriculum 100% of the listed topics must be covered. IL E courses will be approved based upon the Committee's review of the course as to the value of topics to be presented and their relationship to the appraisal process.

A) Classroom hours in excess of the curriculum requirement may be approved for elective credit. Such approval is limited to 9 excess hours for courses in a 30 hour curriculum requirement and 5 excess hours for courses in a 15 hour curriculum requirement.

B) Excess hours may be approved, within the above limits, based upon the Committee's evaluation of the appraisal educational value of the excess hours.

10) All changes in course content shall be submitted to the Department for review and evaluation.

11) The license for all pre-licensure/certification courses shall

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expire 36 months from the date of issue. An approved provider may renew the course approval by ~~fitting a new application in accordance with the provisions of this Section. The new application should be filed 60 days prior to the expiration of the license.~~ completing a renewal application and paying the renewal fee, in accordance with Sections 1455.210(b)(1)(A) and 1455.300(c) of this Part.

d) CE Course Requirement

1) Courses licensed by the Department for pre-licensure/certification appraiser education are approved for CE credit. The renewal applicant will be awarded credit for attendance at these courses provided the license for the course was valid and in good standing at the time of attendance; and provided the course is not repetitious as indicated by Section 1455.205. CE credit for pre-licensure certification education will be awarded as 15 hours for 15 hour courses and 20 hours for 30 (or more) hour courses.

2) CE courses shall be approved by the Appraisal Administrator, upon the recommendation of the Committee, for courses with or without a final examination.

3) The application for each course approval shall include a description of the course, a course (or instructor's) outline that shall list the time frame for topic presentation, the number of classroom instruction hours excluding examination, the time allotted for examination (if any), the specific course name as it will appear on transcripts or course certifications, a sample of the certificate, the transcript or other documentation that will be used to document the student's attendance and any other information that may be required by the Department.

A) An applicant may be required to submit texts and all other course materials for evaluation by the Appraisal Committee.

B) The application for CE courses being offered by a sub-provider shall also include a certification in accordance with subsection (b)(3) of this Section.

4) The Committee/Administrator shall approve courses that will contribute to the integrity, extension and enhancement of professional skills and knowledge in the practice of Real Estate Appraisal. Courses submitted for approval should be designed to cover at least one of the following topics:

- A) Ad Valorem Taxation
- B) Arbitration
- C) Business Courses (related to practice of real estate appraisal.)
- D) Construction Cost Estimating
- E) Ethics and Standards of Professional Practice
- F) Illinois Appraiser Licensing Laws and/or Rules
- G) Land Use, Planning, and Zoning
- H) Property Development
- I) Real Estate Appraisal (valuation/evaluation)

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- J) Real Estate Management, Leasing, Brokerage, Timeshare
 K) Real Estate Law
 L) Real Estate Litigation
 M) Real Estate Finance or Investment
 N) Appraisal Computer Applications
 O) Real Estate Securities and Syndications
 P) Real Property Exchange
 Q) Other topics deemed appropriate by the Committee/Administrator.
- 5) The Committee/Administrator shall not approve:
 A) Motivation courses or seminars
 B) Courses that focus instruction to increase appraiser income
 C) Courses or seminars that focus on the recruitment of employees or clients
 D) Courses or seminars with instructional material relative to associations
 E) Courses or seminars with instructional material relative to passing the State's appraiser examination
 F) Having less than three classroom hours of instruction exclusive of examination (if any)
 G) A course for more than 20 hours CE credit
- 6) Subsequent to approval of any CE course, revisions in course content and/or course material shall be submitted for re-evaluation and re-approval. Failure to report course changes may result in revocation of the CE course license. The fee for re-approval shall be in accordance with Section 1455.210.
- 7) Approval (license) for CE courses shall expire on March 31 of even numbered years. The provider or sub-provider may renew the approval (license) by fitting a new application in accordance with the provisions of this Section, completing a renewal application and paying the renewal fee, in accordance with Sections 1455.210(b)(2)(A) and 1455.300(d) of this Part.
- e) Audits and Inspections. The Department may conduct on site inspections of the course provider's (or sub-provider's) place of business and may audit any session of any course approved for pre-license or CE credit.
- 1) At the request of the Appraisal Administrator, a course provider shall provide a list of all courses that the provider is planning to offer within a 6 month period subsequent to the request. The list shall include the name and license number of each course, as well as the date, time and location of each presentation.
- 2) In the event of a course audit, the provider shall provide the Department representative, at no cost, any and all course materials used in the presentation of the course being audited.
- 3) The Appraisal Administrator, a member of the Administrator's staff, an Appraisal committee member or other designated Department employee may inspect the business office of any course provider (or sub-provider) during normal business hours.

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f) Withdrawal of Approval

- 1) The Department, upon recommendation of the Real Estate Appraisal Committee, shall withdraw, suspend or place on probation in accordance with 68 Ill. Adm. Code 1110 the approval of the real estate appraiser education provider when the quality of the program fails to continue to meet the established criteria of an approved provider as set out in this Section or upon determination that the decision to approve the program was based upon false or deceptive information.
- 2) The provider's license will terminate immediately upon the failure to renew. Course licenses will terminate upon the expiration date or immediately upon the termination of the provider's license. The provider may thereafter reapply for approval as an appraiser education provider and for course approval.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 1455.210 Fees - Education Providers/Courses

a) Application/Renewal Fees for Appraiser Education Providers

- 1) The fee for application as a real estate appraiser education provider shall be \$1000, plus course approval fees set forth in subsection (b) below, which are non-refundable.
- 2) The fee for renewal of an approved real estate appraiser education provider shall be \$500 per year which is non-refundable.

A) The fee to renew an appraiser education provider license that has expired for less than 60 days shall be \$500 plus a penalty of \$100.

B) An appraiser education provider's license that has expired for more than 60 days may not be renewed. The provider may reapply for licensure in accordance with Section 1455.200.

- b) Application Fees for Pre-license/certification and CE Course Approval
- 1) The application fee for a pre-license/certification appraisal course shall be \$500 and each approved course ~~must~~ re-evaluated--and--re-approved will expire every 3 years from the date of issue; or, upon the expiration of the provider license (for which the course license is subordinate).

A) The course may be renewed (subject to a valid provider's license) for an additional 3 years by completion of a renewal application provided by the Department and payment of a non-refundable renewal fee of \$250.

B) Renewal applications received after the expiration date shall be \$300. Applications received 366 days or more after the expiration date shall not be renewed. The applicant may submit a new application for approval of the

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pre-license/certification course under a different course title.

C) The renewal application shall include a confirmation of the provider's original certification and a certification that the course is essentially the same course as previously approved. The application may request other information deemed necessary by the Department. In addition to the application, the applicant must explain any course revisions in detail, submit a listing of texts and other materials used in the course as well as the current final examination and the current course outline, which shall contain a time schedule for topic presentation.

2) The application fee for CE course approval shall be \$300 and the approval (license) for each course ~~must be re-evaluated~~ may be renewed prior to its expiration date, which is March 31 of even numbered years. A course meeting the requirements of a pre-license/certification course as set forth in Section 1455.200(c)(1) through (5) will be denied licensure as a CE course; however, such course may be approved by application for approval as a pre-license/certification course and payment of the appropriate fee.

A) The CE course may be renewed for an additional 2 year licensure term by completion of a renewal application which shall be provided by the Department and payment of a renewal fee of \$150.

B) The renewal fee, if submitted after the expiration date, shall be \$200. Any application for CE course renewal received by the Department 366 days or more after the expiration date shall not be renewed. The applicant may submit a new application for approval of the course under a different course title.

C) The renewal application shall include a confirmation of the provider's original certification and a certification that the course is essentially the same course as previously approved. The application may request other information deemed necessary by the Department. In addition to the application, the applicant must explain any course revisions in detail, submit a listing of texts and other materials used in the course and the current course outline, which shall contain a time schedule for topic presentation.

3) The fee for evaluation of revisions to approved courses shall be \$200 for pre-license/certification courses and \$75 for CE courses.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Number: Proposed Action:
140.642 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments provide for the elimination of the ICF/MI designation which is specific to nursing facilities having residents with diagnoses including severe mental illness (MI). This Department initiative is the result of interpretive efforts regarding requirements under OBRA'87 which pertain to the treatment of persons with MI in Medicaid funded nursing facilities. According to the proposed amendments, nursing facilities may provide psychiatric rehabilitation services to an individual with severe mental illness when a preadmission screening agent of the Department of Mental Health and Developmental Disabilities has determined that the applicant can derive benefit from a nursing facility placement. However, Section 140.642 also specifies that persons with severe MI cannot appropriately be placed into nursing facilities when the MI symptomatology is so acute or severe that specialized services in an inpatient psychiatric program are necessary.

Other proposed changes have been made to update exceptional circumstances to meet federal regulations. Exceptional circumstances describe situations in which persons with severe mental illness or developmental disabilities can be admitted to nursing facilities rather than specialized environments, because of specific medical diagnoses such as terminal illness, temporary convalescent care, and extreme conditions such as coma and ventilator dependence.

These proposed amendments will not result in any budgetary changes for the Department.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Sections Proposed Action Illinois Register Citation

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140.11	Amendment	January 13, 1995 (19 Ill. Reg. 165)
140.12	Amendment	January 13, 1995 (19 Ill. Reg. 165)
140.80	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.80	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.82	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.82	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.84	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.84	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.400	Amendment	February 10, 1995 (19 Ill. Reg. 1200)
140.413	Amendment	July 8, 1994 (18 Ill. Reg. 10637)
140.435	Amendment	February 10, 1995 (19 Ill. Reg. 1200)
140.523	Amendment	January 13, 1995 (19 Ill. Reg. 165)
140.645	Amendment	December 16, 1994 (18 Ill. Reg. 17865)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Joanne Jones, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave. E., 3rd Floor, Springfield, Illinois 62762 (Phone: (217) 524-3215). The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act (5 ILCS 100/5-40).

These proposed amendments may have an impact on small businesses, small municipalities, and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act (5 ILCS 100/1-75, 1-80, 1-85). These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act (5 ILCS 100/5-30). These entities shall indicate their status as small businesses, small municipalities, or not for profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Nursing facilities with the designation of ICF/MI, and other long term care environments

B) Reporting, bookkeeping or other procedures required for compliance: None

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C) Types of professional skills necessary for compliance: None

- 13) State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: The reasons for this rulemaking are fully described above in the complete description of the subjects and issues involved. This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER 1: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section	
140.1	Incorporation By Reference
140.2	Medical Assistance Programs
140.3	Covered Services Under The Medical Assistance Programs for AFDC, AFDC-WANG, AABD, AABD-WANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify as Mandatory Categorically Needy and Disabled Persons Under Age 21 Who May Qualify for Medicaid and In-Home Care (Model Waiver)
140.4	Covered Medical Services Under AFDC-WANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5	Covered Medical Services Under GA
140.6	Medical Services Not Covered
140.7	Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8	Medical Assistance For Qualified Severely Impaired Individuals
140.9	Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-WANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10	Medical Assistance Provided to Incarcerated Persons

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Section	
140.11	Enrollment Conditions for Medical Providers
140.12	Participation Requirements for Medical Providers
140.13	Definitions
140.14	Denial of Application to Participate in the Medical Assistance Program
140.15	Recovery of Money
140.16	Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17	Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18	Effect of Termination on Individuals Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20	Submittal of Claims
140.21	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)

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140.22	Magnetic Tape Billings
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation

140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 6503-1 et seq.) [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13) [305 ILCS 5/Arts. III, IV, V, VI, VII, and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24,

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1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8129, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246,

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effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.914 and 140.916 Table I reclassified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.207 Table A and 147.209 Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 reclassified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16321, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 reclassified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.998 reclassified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 reclassified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a

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maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201,

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1078) has mental illness, mental retardation, or a related condition and transfers between facilities at the ICF or SNF level of care; or

1079) is currently residing in Illinois and is approved by the Department for placement in an out-of-state facility?

12) is currently residing in an ICF/MR on a private-pay basis, is between the ages of 22-64, and applies for eligibility for services or

13) is currently residing in an ICF/MR, has reached age 65, and applies for Medicaid eligibility.

Agency Note: The screening assessments in subsections (b)(6) and (7) of this Section can be a review of an existing Level I Screen which has been conducted during the previous 12 months, when the Screen remains valid and reliably reflects the status of the individual. However, when the Level I Screen indicates the individual has developmental disabilities or severe mental illness, a Level II Screen must be conducted as a part of the transfer process.

c) A screening assessment is not required for an individual who:

1) will be receiving sheltered care services;

2) is admitted into a facility on a provisional basis for no more than 30 days during an emergency situation in which an accurate diagnosis cannot be made; or

3) is an Illinois resident and is approved for placement by the Department in an out-of-state facility, when already residing or placed (i.e., a hospital) in that state. In such cases, the location (state) of the potential placement is responsible for the screening assessment of the individual.

d) A new screening assessment is not required for an individual who is currently eligible for ICF, SNF or ICF/MR, ICF/MR or ICF/MR (SNF/PB license) services and who:

1) is absent from the facility for less than 30 days and returns to the same level of care at the same facility;

2) is absent from the facility for 30 days or more to receive inpatient hospital services and returns from the hospital to the same level of care at the same facility;

3) is absent from the facility for 30 days or more for therapeutic leave (Section 140.523) approved by the Department and returns to the same level of care at the same facility.

e) Level I Identification (IB) Screen Screening Assessment

1) the Level I ID Screen is the first phase of the preadmission screening process. This screening process must be completed for all Medicaid or Medicaid eligible individuals who enter long term care facilities. The screening process is conducted to determine if there is a reasonable basis for suspecting that an applicant has a developmental disability (DD) or severe mental illness (MI). This determination is required to assure that individuals with developmental disabilities DD or severe mental illness MI are placed into settings which provide the services they require and

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to prevent the inappropriate admissions of such persons into nursing facilities. Entities authorized to complete the Level I ID Screen screen are agents of DMHDD, DOA, DORS, hospitals, or nursing facilities.

2) If the Level I ID Screen indicates that an individual may have a developmental disability and DD or severe mental illness MI, a comprehensive assessment, the Level II assessment screen, is conducted by DMHDD designated preadmission screening (PAS) agents concerning the level of care needed for nursing facility services and the need for specialized services. Categorical determinations may be made that individuals with dementia, which exists in combination with mental retardation or a related condition, do not need specialized services or psychiatric rehabilitation services, except when the individual has an exceptional circumstance which is exempt from the Level II Screen requirement (see subsection (b)(7)(B) of this Section). The individual who has been determined to be DD and who is age 60 or more may elect not to receive specialized services or psychiatric rehabilitation services. The individual is then referred to DOA for screening following the Level II assessment screen.

3) If the Level I ID Screen does not identify a reasonable basis for suspecting a developmental disability DD or severe mental illness MI, the applicant is referred to DOA or DORS for a Determination of Need (DON) to assess the need for nursing facility services if there is a possibility that the applicant requires the services of a nursing facility.

4) Exceptional Circumstances

A) Exceptional circumstances, Level II Screen required, there are some exceptional circumstances which may allow an individual with a developmental disability to be admitted into a nursing facility, and an individual with severe mental illness to be admitted into a nursing facility. Due to exceptional circumstances, an individual identified as having DD or MI, following a Level I ID Screen, may be determined to need nursing facility services. However, the individual with possible exceptional circumstances must then receive a Level II Screen (comprehensive assessment) to determine the individual's need for specialized services before placement in a nursing facility, except in the specific circumstances noted in subsection (e)(5) of this Section. (b)(7)(B) below. An exceptional circumstance may only be determined following a Level II Screen by a DMHDD-PAS agent (see subsection (b)(7) of this Section) for individuals with developmental disabilities who cannot participate in specialized services and for individuals with severe mental illness who cannot participate in psychiatric rehabilitation services due to the severity of their

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medical conditions. Exceptional circumstances as determined by a Level II screen include, but are not limited to:

- †† chronic obstructive pulmonary disease;
- ††† severe Parkinson's disease;
- ††† amyotrophic lateral sclerosis;
- ††† congestive heart failure;
- †† ventilator dependence; and
- ††† a primary diagnosis of dementia including Alzheimer's disease, in the case of the individual with developmental disabilities.

A) terminal illness with a life expectancy of six months or less;

B) convalescent care (a medically prescribed period of recovery, following acute care, not to exceed 120 days); and

C) severe physical illnesses, such as coma, ventilator dependence, functioning at brain stem level or diagnoses such as chronic obstructive pulmonary disease, Parkinson's disease, Huntington's disease, amyotrophic lateral sclerosis, and congestive heart failure.

5)B) Exceptional circumstances, Level II Screen exemption. Some individuals with DD or severe MI a developmental disability and/or severe mental illness who cannot benefit from specialized services or psychiatric rehabilitation services respectively, may be admitted to a nursing facility without receiving a Level II assessment to determine the need for specialized services. Screen by a DMHDD PAS agent. Following are the exceptional circumstances which are exempt from the Level II screen requirement. Certification by a physician must document the need for nursing facility services as specified in subsection (a)(1) of this Section. The exceptional circumstances which are exempt from determination of need for specialized services are provisional admissions pending further assessment in cases of delirium where an accurate diagnosis cannot be made until the delirium clears.

- †† coma;
- ††† function at the brain stem level only;
- ††† terminal illness with a life expectancy of six months or less;
- ††† convalescent care in a medically prescribed period of recovery, following acute care, not to exceed 120 days; and
- †† a primary diagnosis of dementia including Alzheimer's disease, in the case of the individual with severe mental illness.

6) In all other cases, a determination that specialized services are not needed must be based on a Level II assessment.

f) Designated Screening Agents

1) DMHDD or its designated PAS agents (PAS-Agents) shall perform a

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Level II assessment Screen for applicants for long term care for whom there is a reasonable basis to suspect mental retardation or related conditions, or severe MI mental illness.

A) Mental retardation and related disorders shall include those conditions meeting the criteria described in subsection (g) of this Section below and Section 140. Table H.

i) DMHDD PAS agents who have screened an applicant found to have mental retardation or a related condition, in need of specialized services, may authorize eligibility for placement into an ICF/MR or an EP-MR (SNF/PB) level of care, or refer the applicant to a State operated ICF/MR, a home and community-based waiver program for persons with developmental disabilities, or other community residential settings such as a Community Integrated Living Arrangement (CILA) which is under the direction and oversight of DMHDD. Individuals who require both nursing facility services and specialized services may be authorized for eligibility for placement into an ICF/MR only.

ii) When the assessment indicates the applicant requires the services of a nursing facility and cannot participate in specialized services due to the severity of a medical condition exceptional circumstances (see subsection (e)(4)(A) of this Section), the DMHDD PAS agent may authorize eligibility for the placement.

iii) For the individual with mental retardation or a related condition, a Qualified Mental Retardation Professional (QMRP) (89 Ill. Adm. Code 144.275 (b)(1)) serves as the DMHDD PAS agent who summarizes the final screening assessment and authorizes eligibility for placement.

iv) The particular placement identified for any applicant will depend upon the identified program's capacity to meet the individual's need for specialized services and, if present, medical/health needs. An individual with developmental disabilities whose overall level of functioning is in the mild range of mental retardation and who is generally independent, does not need specialized services and may not be placed into an ICF/MR or in a home and community-based waiver setting. Other community residential options are appropriate for such individuals.

v) An individual with DD whose overall level of functioning is in the mild range of mental retardation and who is generally independent does not need specialized services and may not be placed into an

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ICF/MR or in a home and community-based waiver setting. Other community residential options are appropriate for such individuals.

- B) Severe MI mental-illness is described in subsection (i)(2) of this Section.

i) DMHDD PAS agents who have screened an applicant found to have severe MI mental-illness may authorize eligibility for placement into an ICF/MR SNF or ICF level of care or refer the applicant to other community residential settings if the applicant has need of psychiatric rehabilitation services. authorize placement into a nursing facility if the person is 60 years of age or older requires psychiatric rehabilitation services and has a substantial medical condition or refer the applicant to an inpatient psychiatric State-operated facility for persons with severe MI mental-illness who need specialized services (see subsection (i)(5) of this Section).

ii) When the assessment indicates the applicant requires the services of a nursing facility which is not designated as an ICF/MR and cannot participate in psychiatric rehabilitation services due to the severity of a medical condition (subsection (e)(4) of this Section), the DMHDD PAS agent may authorize eligibility for the placement

iii) For the individual with severe mental-illness, a Qualified Mental Health Professional (QMHP) may serve as the DMHDD PAS agent who summarizes the final screening assessment and authorizes eligibility for placement.

iv) The participant's placement is identified for any applicant who depends upon the identified program's capacity to meet the individual's need for psychiatric rehabilitation services or specialized services and is presently medical/health needs. Applicants who require the services of a nursing facility and are in need of psychiatric rehabilitation services shall be referred to programs which are competent to provide psychiatric rehabilitation services in accordance with 89 Ill. Adm. Code 147.300 through 147.345.

- 2) DORS staff or its designated agents will screen all applicants for ICF or SNF services, between the ages 18 and 59, who do not meet the criteria for screening and placement by DMHDD PAS agents (Level II Screen-BON). An applicant screened by DORS or its designated agents (Level II Screen-BON), who is suspected of having DD a developmental disability or severe MI mental-illness, must be referred to a DMHDD PAS agent for a Level II assessment

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Screen before placement into a facility or authorization for a DORS home and community-based waiver setting. When an applicant is determined not to have a DD developmental disability requiring specialized services or severe MI mental-illness following a PAS-Level II assessment Screen, he/she will be referred to DORS for placement. When it is determined that an applicant has a developmental disability DD requiring specialized services or severe MI mental-illness following a Level level II assessment Screen, he/she will be placed by a DMHDD PAS agent DMHDD may authorize his/her eligibility for placement into an appropriate setting.

- 3) DOA or its designated agents will screen BON all applicants for ICF or SNF services age aged 60 or over who do not meet the criteria for screening by DMHDD PAS agents (Level II Screen). An applicant screened by DOA or its designated agents, who is suspected of having DD a developmental disability or severe MI mental-illness, must be referred to a DMHDD PAS agent for a Level II assessment Screen before placement into a facility or authorization for a DOA home and community-based waiver setting. When an applicant is determined not to have a DD developmental disability requiring specialized services or severe MI mental-illness following a PAS-Level II assessment Screen, he/she will be referred to DOA for placement. When an applicant is determined by a Level II assessment Screen to have a severe MI mental-illness and/or DD developmental disability he/she may be placed by DMHDD unless the applicant elects not to receive psychiatric rehabilitation services or specialized services. see (e)(2) of this Section DMHDD may authorize his/her eligibility for placement into an appropriate setting.

- 4) No screening agent may limit an eligible applicant's opportunity to receive services from any facility appropriately certified and licensed to provide those services, or any community residential setting appropriate to provide them.

- 5) DPA, as the State Medicaid agency, bears ultimate responsibility for the proper operation of the PASARR (readmission Screening and Annual Resident Review) program in Illinois. Therefore, DPA may withdraw screening authority from an individual agent if it determines that the agent is not accurately applying screening criteria or conforming to procedures as described in this Section. In such an event, DPA will first request the responsible Department to implement corrective actions. If the screening agent remains out of compliance ninety days following this request, DPA may designate an alternate agent to conduct screenings until the affected agent implements a plan of correction acceptable to DPA or the associated Department designates a new agent.

- 9) Need for ICF/MR Services
1) The need for ICF/MR services shall be established through a

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comprehensive assessment, the Level II assessment Screen, that demonstrates that the individual has mental retardation or a related condition manifested before age 22, which is likely to continue indefinitely, and results in functional limitations so substantial that the individual performs at or below the "Eligible" level in three or more of the six ~~67~~ areas of major life activity as set forth in Section 140. Table H. Related conditions can include autism, cerebral palsy and seizure disorders, but do not include MI mental illness. Functional limitations with respect to mental retardation and related conditions are not limitations which are attributable to mental illness.

- 2) No applicant for ICF/MR services meeting the above criteria and the criteria in Section 140. Table H shall be found to be inappropriate for such services due to a need for the treatment of a severe or profound sensory handicap, motor deficit, or mental retardation; nor shall such an applicant be denied ICF/MR services due to age, medical needs, or maladaptive behavior, except as otherwise described in this Section.

h) Need for ICF/MR (SNF/PED License) Services

- 1) ICF/MR (SNF/PED license) services will only be approved for individuals who are under the age of 21 at the time of admission to the facility.

- 2) The need for such services shall be established through a comprehensive assessment, the Level II assessment Screen, that demonstrates that the individual has a medical (physical) condition requiring skilled level nursing care; or has mental retardation or a related condition and/or a severe medical or physical disability or a combination of severe disabilities.

~~AGENCY--NORE--OBRA-97--requirements--prohibit--the-admission--of individuals--with--a--primary--diagnosis--of--mental--retardation--into non-ICF/MR--facilities--Therefore--SNF-PED--facilities--which--meet ICF/MR--certification--requirements--must--be--certified--ICF-MR--by--December 31--1999--in--order--to--comply--with--federal--requirements--when--admitting individuals--with--mental--retardation--Facilities--which--undergo certification--conversion--to--ICF-MR--will--retain--State--licensure--for SNF-PED--services~~

- i) Need for Nursing Facility Services: The need for nursing facility services shall be established by an assessment (a DON, see subsection (e)(3) of this Section, or a Level II assessment Screen, see subsection (e)(2) ~~text~~ of this Section) ~~which demonstrates an individual's need on the basis of a medical condition.~~

- 1) In Illinois, nursing facilities are licensed for intermediate level nursing care and skilled level nursing care.

- A) Intermediate (ICF) level nursing care is that needed for ~~medical conditions which require medical or nursing care below a skilled-level mental or physical conditions which do not require hospital or skilled nursing facility care,~~

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but do require services that are above the level of room and board, ~~and which prevent independent living in the absence of such care and can be made available only through institutional facilities.~~ Individuals with stabilized conditions requiring basic nursing care or other restorative services under periodic medical direction are appropriate for intermediate level care.

- B) Skilled (SNF) level nursing care is that needed for medical conditions requiring 24-hour nursing care or intensive medical treatment, such as care for post-operative or bedfast patients, and care for those in need of special medical equipment or constant monitoring by a professional nurse. A need for a high level of personal care assistance does not meet the criteria for skilled level care.

- 2) ~~A nursing facility, other than an ICF-MI, may admit an individual with a severe mental illness requiring psychiatric rehabilitation services if the person is 60 years of age or older and has a substantial medical condition.~~

- A) ~~A substantial medical condition for individuals 60 years of age or older who are determined to need psychiatric rehabilitation services is a diagnosed medical condition that requires the intervention of licensed practical nurses or registered nurses in accordance with instruction under a physician's care plan for the treatment of the diagnosed medical condition.~~

- B) ~~Personal care assistance is not a sole basis for a substantial medical condition not need for placement into a nursing facility for a person with a severe mental illness.~~

- 2) ~~Need for ICF/MR Psychiatric Rehabilitation Services in Nursing Facilities: An ICF-MI is a nursing facility which is designated to admit individuals with severe mental illness who are in need of psychiatric rehabilitation services. Individuals admitted into a nursing facility an ICF-MI are screened by a DMHDD PAS agent who determines that, because of the individual's severe MI mental illness, he/she can derive benefit from placement into a nursing facility designated as an ICF-MI. The need for ICF-MI psychiatric rehabilitation services shall be established through a comprehensive assessment, the Level II assessment Screen, which includes a diagnosis that the individual has a severe MI mental illness, (and does not have a primary diagnosis of dementia, including Alzheimer's disease or a related disorder), resulting in substantial functional limitations for that individual which necessitate psychiatric rehabilitation specialized services. If diagnoses that constitute a severe MI mental illness are:~~

- A) Schizophrenia, including
i) Catatonic
ii) Disorganized

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- iii) Paranoid
iv) Undifferentiated
v) Residual
B) Delusional (Paranoid) Disorder
C) Schizoaffective Disorder
D) Psychotic Disorder, not otherwise specified (atypical psychosis)
E) Bipolar Disorders
i) Bipolar Disorder - Mixed, Manic, and Depressed
ii) Cyclothymia
iii) Bipolar Disorder not otherwise specified
F) Major Depression, recurrent
ii) Bipolar Disorder not otherwise specified
- 2) Severe mental illness may be described by examples of functional characteristics. The following descriptions may reflect varying intensity levels of severe mental illness:
A) Level I - The individual with this intensity level of severe mental illness experiences minor distortions of daily living. With little disturbance in activities of daily living, the individual may be able to live independently in the community and engage in employment. The individual is capable of learning to accept direction, maintaining adequate interpersonal relationships and concentrating on a task for a sufficient period of time. Under occasional stress, the person may require follow-up supervision, guidance or support.
B) Level II - The individual with this intensity level of severe mental illness experiences definite disturbances of thinking with definite but mild disturbances in behavior. At least initially, the individual will require continuing supervision, guidance, motivation, and support. A misunderstanding of instructions, limited activity, self-isolation or an overreaction to gestures, speech, and emotion may be displayed on a regular basis. Psychiatric rehabilitation services may allow such persons to become capable of maintaining themselves more independently within a IEP/MI or may allow them to gain the skills and behaviors needed to live in a supervised community living situation. They may also have the potential to engage in low stress supported work efforts.
C) Level III - The individual with this intensity level of severe mental illness experiences extreme disturbances of thinking and behavior that entail potential harm to self or others or severe disturbances of all components of daily living, requiring constant supervision and care. The individual is unable to communicate readily and has difficulty differentiating between fantasy and reality. The

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- person's behavior may be disruptive and menacing to others. These symptoms and suicidal ideations necessitate continuing observation and professional intervention through the provision of psychiatric rehabilitation services. The individual may be capable of more independent self-maintenance in a IEP/MI. The continued provision of psychiatric rehabilitation services may allow the person to gain the skills and behaviors needed for supervised community living.
- 3) Individuals with severe MI mental illness who are eligible for IEP/MI psychiatric rehabilitation services, exhibit substantial functional limitations which necessitate 24-hour a day supervision due to the need for:
A) Professional observation for medication monitoring (adjustment and or stabilization), and or
B) Daily supervision and assistance in at least two of the following areas:
i) Self-maintenance - Physical functioning, personal care and hygiene, dressing, grooming, toileting, nutrition, speech and language, eating habits, maintenance of personal space and possessions, health maintenance, use of medication, and self-medication program.
ii) Social Functioning - Interaction and involvement with family/significant others, social skills and relationships with friends, peer group involvement, ability to pursue leisure/recreational activities, and education regarding alcohol and substance abuse.
iii) Community Living Activities - Homemaking responsibilities (i.e., cleaning, laundry, meal preparation and service, shopping, financial management, and using telephone), use of transportation, traveling from residence independently, recognizing and avoiding common dangers, and use of community services.
iv) Work Related Skills - Job retention behaviors (i.e., tardiness, absenteeism, relationships with co-workers, supervisors, work quality and quantity, ability to accept, understand and carry out instructions), job seeking skills (i.e., ability to initiate and schedule own activities, ability to seek employment, completing an application, personal appearance, communication and interviewing skills, ability to set realistic vocational goals), basic reading, writing and arithmetic skills.
- 4) Psychiatric rehabilitation services are designed to reduce residual psychiatric symptoms and to increase the individual's ability to function with as much self-determination and independence as possible. These services are individualized and

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include aggressive, consistent and frequent implementation of a program of specialized and generic care. This may include specific therapies or treatment activities, training, health services and related services. Psychiatric rehabilitation services shall begin with a diagnostic evaluation and a comprehensive functional assessment of the individual's strengths and needs. The assessment process leads to the development of a Comprehensive Care Plan (CCP). The CCP outlines the services needed, the persons responsible for the delivery of services and the process of reevaluating the plan. Psychiatric rehabilitation services may be delivered in settings which make available:

A) 24-hour-a-day supervision of the individual;
B) Daily implementation of the individual's CCP and periodic evaluation of the CCP by an interdisciplinary team; and
C) Daily administering and monitoring of prescribed medication and

24-hour-a-day pharmacological treatment and/or behavioral psychiatric intervention.

5) Individuals with diagnoses of severe MI mental illness who would not be appropriate for nursing facility ICPMI services include:

A) Individuals with severe MI mental illness whose symptomatology is so acute or severe that they require specialized services in an inpatient psychiatric program.

B) Individuals with severe mental illness who cannot participate in psychiatric rehabilitation services due to the severity of their medical (physical) conditions, may be placed in a nursing facility when is not designated as an ICPMI use subsection (f)(4)(A) of this Section.

C) Individuals with severe MI mental illness who do not require the intensity of psychiatric rehabilitation services which are provided in a nursing facility or ICPMI setting. These individuals usually require less intensive treatment which is available through community mental health outpatient services.

6) Individuals with a severe mental illness who are of legal age or older may be admitted to a nursing facility not designated as an ICPMI if the determination from a level II screening shows that:

A) The person is in need of psychiatric rehabilitation services because of severe mental illness; the subsection (f)(1) of this Section; which causes a substantial functional limitation; and the subsection (f)(3) of this Section; and
B) The person has a substantial medical condition, use subsection (f)(2)(A) of this Section.

(b)(1) Date of Payment

1) A screening assessment (the level II Screen subsection (f)(3) of this Section) and the level II Screen subsection (f)(3) of this Section is valid for 60 days from the date of the assessment. For

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individuals with DD developmental disabilities or severe MI mental illness, an existing Level II assessment Screen may remain valid after 60 days when the QMRP or QMRP respectively updates any component(s) of the assessment which is/are not current, and confirms the validity of the assessment as reliably reflecting the status of the individual. Additional assessments may be conducted within any 60 day period:

A) If the screening agent judges that it is merited by a change in the individual's medical or developmental status, or
B) In the event that an assessment has not been conducted properly or by the appropriate authorized screening agent, or

C) If the individual appeals the screening assessment decision.
2) No payment for long term care services may be made unless on the screening assessment and a physician's certification, as described in Section 140.514, document a need for such care. Where the assessment and the certification do not establish this need, the individual may request a licensed physician designated by the Department, to review the medical reports and any other evidence the individual wishes to submit, and certify that there is a need for long term care in the individual case. The individual will be notified of his/her right to this review.

A) For an applicant for long term care services whose preadmission screening assessment and physician's certification have been completed, prior to admission and document the individual's need for such services, the Department will begin payment:

i) on the date of admission if Medicaid eligibility has been established, or
ii) on the effective date of Medicaid eligibility if such eligibility is not established prior to admission.

B) For an applicant for long term care services who is admitted into a long term care facility in an emergency situation in which placement must occur within 24 hours after the individual's admission into the facility, the Department will begin payment on the date of admission if Medicaid eligibility is established prior to admission, or

ii) upon the date of Medicaid eligibility if such eligibility occurs following admission.

C) For an applicant for long term care services who is admitted into a long term care facility in a facility in a long term care facility which placement must occur in 3 working days after the admission, the Department will begin payment on the date of admission if Medicaid eligibility is established prior to admission, or

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~~assessment-and-physician's-certification---occur-within-15
calendar-days-of-admission-payment-will-be-made
it upon-the-date-of-admission-if-Medicaid-eligibility-is
established-prior-to-admission-or
it upon-the-date-of-Medicaid-eligibility---if---such
eligibility-occurs-following-admission-~~

B) For an individual who applies for Medicaid after admission to a facility:

i) It is the facility's responsibility to immediately initiate screening activities by contacting the appropriate screening agent. Agents are required to complete screening assessments in such circumstances (nonemergency/nonpriority), within 30 calendar days of the initial screening referral.

ii) If the screening assessment and physician certification are completed within 30 days of Medicaid application, payment will be made from the effective date of Medicaid eligibility.

iii) If for any reason including a failure on the part of the facility to contact an appropriate screening agent, the screening assessment does not occur within 30 days of Medicaid application, the Department will not begin payment until the date that the screening assessment does occur, the date that the physician certification requirement is met, or the effective date of Medicaid eligibility, whichever is later.

C) For an individual who applies for Medicaid before admission to a SNF, ICF or ICF/MR, and the screening assessment and physician's certification requirements are met within 30 calendar days of admission, payment will be made:

i) on the date of admission, or
ii) on the effective date of Medicaid eligibility, whichever is later.

D) For an individual who applies for Medicaid before admission to a SNF, ICF or ICF/MR, and the screening assessment and/or physician certification requirements are not met within 30 calendar days of admission, payment will be made:

i) upon the date that the screening assessment requirement is met, or
ii) upon the date that the physician certification requirement is met, or
iii) on the effective date of Medicaid eligibility, whichever is later.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Customer Rights and Responsibilities

2) Code Citation: 89 Ill. Adm. Code 677

3) Section Numbers: Proposed Action:

677.200 Amendments

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues Involved: In order to meet the budgetary constraints which result from the Governor's proposed budget for State Fiscal Year 1996 and maximize Federal Financial Participation available to the State to offset the cost of services for customers served through the Home Services Program (HSP), as of July 1, 1995 DORS is dividing HSP into two separate program components.

The first component, the Medicaid Waiver Program, will be available with open enrollment, to eligible individuals who have income, as a family unit, at or below the Poverty Standard. As FFP is available to the State for services provided to these individuals, in order to receive services individuals served through the Medicaid Waiver Program will be required to apply for, accept, and maintain Medicaid eligibility through the Illinois Department of Public Aid. Current customers who are determined by DORS to have income at or below the Poverty Standard but who were determined eligible to receive services prior to July 1, 1995 will be required to apply for, accept and maintain Medicaid by September 1, 1995 in order to continue to receive services.

The second program component, the State Funded Program, will be available to the number of eligible individuals served by DORS, as of June 30, 1995, who have income, as a family unit, above the Poverty Standard. All individuals determined eligible by DORS to receive services through the State Funded Program on or after July 1, 1995 will be placed on a waiting list and offered services based on the criteria found in the proposed rulemaking at 89 Ill. Adm. Code 676.30(z).

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this part? No

10) Statement of Statewide Policy Objectives: This is not applicable to this

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rulemaking.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-3429
Telephone Number: (217)785-3896

TDD/TTY: (217)785-9301

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

- 13) State reasons for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: The Department had no indication that the budgetary impact was going to necessitate such stringent controls on the program.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 677

CUSTOMER RIGHTS AND RESPONSIBILITIES

SUBPART A: CUSTOMER RIGHTS

Section	
677.10	Assurance of Customer Rights
677.20	Nondiscrimination
677.30	Confidentiality of Information
677.40	Freedom of Choice
677.50	Referral
677.60	Application
677.70	Notice of Action
677.80	Appeal of an Action Taken by DORS
677.90	Repayment of Assistance

SUBPART B: CUSTOMER RESPONSIBILITIES

Section	
677.200	Consumer Responsibilities

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5056, effective March 21, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART B: CUSTOMER RESPONSIBILITIES

Section 677.200 Consumer Responsibilities

It is the responsibility of each customer of HSP to:

- provide that information necessary for DORS to process the referral of that individual for HSP services;
- provide a mailing and street address, along with directions to the individual's home sufficient for the DORS counselor to locate the individual;
- provide a telephone number if the individual has a telephone;
- sign an application, if the customer wishes a determination of eligibility to be made for HSP service;
- assist DORS' staff on gathering the information necessary to determine eligibility;
- sign all required forms which are necessary to comply with applicable federal law or the provisions of the Medicaid Waiver or are necessary

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to process payment through the Comptroller's Office. A customer receiving PA services must sign the Client/Provider Agreement (89 Ill. Adm. Code 714.310);

- g) report all changes in circumstances which may effect eligibility or continued eligibility for services to DORS, as soon as known. Such changes include changes in:

- 1) address;
 - 2) living arrangement;
 - 3) income or assets;
 - 4) services provided to the individual at no cost to DORS;
 - 5) service needs;
 - 6) medical and/or psychological condition;
 - 7) services providers;
 - 8) absence of the individual from his/her home that affects service provision; and
 - 9) residency or citizenship status;
- h) apply for any and all other financial and service benefits that the customer may be expected to be eligible insofar that eligibility for these services may affect HSP eligibility, level of services required by the individual, cost of services to DORS;
- i) cooperate with DORS' projects conducted for the purpose of obtaining or validating general program information or operations where such projects are not related to customer-specific eligibility;
- j) cooperate with service providers, DORS' staff, and representatives in complying with HSP service plans, reassessments of eligibility and other administrative rules established in this Subchapter; and
- k) if served through the Medicaid Waiver Program, cooperate with DPA in applying for, receiving, maintaining and recertifying eligibility for Medicaid.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Eligibility

- 2) Code Citation: 89 Ill. Adm. Code 682

- 3) Section Numbers: Proposed Action:

682.100	Amendments
682.200	Amendments
682.240	Amendments
682.250	Amendments
682.260	Repealer
682.410	Amendments
682.420	New
682.500	Amendments
682.510	Amendments
682.530	New

- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

- 5) A Complete Description of the Subjects and Issues Involved:

In order to meet the budgetary constraints which result from the Governor's proposed budget for State Fiscal Year 1996 and maximize Federal Financial Participation available to the State to offset the cost of services for customers served through the Home Services Program (HSP), as of July 1, 1995 DORS is dividing HSP into two separate program components.

The first component, the Medicaid Waiver Program, will be available with open enrollment to eligible individuals who have income, as a family unit, at or below the Poverty Standard. As FFP is available to the State for services provided to these individuals, in order to receive services individuals served through Medicaid Waiver Program will be required to apply for, accept, and maintain Medicaid eligibility through the Illinois Department of Public Aid. Current customers who are determined by DORS to have income at or below the Poverty Standard but who were determined eligible to receive services prior to July 1, 1995 will be required to apply for, accept and maintain Medicaid by September 1, 1995 in order to continue to receive services.

The second program component, the State Funded Program, will be available to the number of eligible individuals served by DORS as of June 30, 1995 who have income, as a family unit, above the Poverty Standard. All individuals determined eligible by DORS to receive services through the State Funded Program on or after July 1, 1995 will be placed on a waiting list and offered services based on the criteria found in the proposed rulemaking at 89 Ill. Adm. Code 676.30(z).

DEPARTMENT OF REHABILITATION SERVICES
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6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this part? No

10) Statement of Statewide Policy Objectives: This is not applicable to this Rulemaking.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner, Manager
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Springfield, Illinois 62794-9429

Telephone number: (217) 785-3896
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If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

13) State reasons for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: The Department had no indication that the budgetary impact was going to necessitate such stringent controls on the program.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES
NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 682
ELIGIBILITY

SUBPART A: GENERAL APPLICABILITY

Section 682.10	General Applicability
	SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA
Section 682.100	General Eligibility Criteria
	SUBPART C: FINANCIAL ELIGIBILITY CRITERIA
Section 682.200	Assets Limitation
682.210	Transfer of Assets
682.220	Exempt Assets
682.230	Assets Held in Joint Ownership
682.240	Income Allowances
682.250	Cost Sharing Provisions
682.260	General Exceptions to Cost Share Provisions <u>(Repealed)</u>

SUBPART D: EFFECT OF OTHER SERVICES ON HSP

Section 682.300	Effect of Other Services on HSP
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SUBPART E: REDETERMINATION OF ELIGIBILITY

Section 682.400	Redetermination Requirements
682.410	Redetermination Time Frames
682.420	<u>Impact on Program</u>

SUBPART F: GRANDFATHERING PROVISIONS

Section 682.500	Exceptions to Eligibility Standards
682.510	Exceptions to Cost Sharing Provisions
682.520	Exceptions to Service Cost Maximums
682.530	<u>Grandfathering Based on Implementation of Poverty Standard Provisions</u>

DEPARTMENT OF REHABILITATION SERVICES

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AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5070, effective March 21, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section 682.100 General Eligibility Criteria

In order to receive services through HSP an individual must:

- a) be a citizen of the United States, or be an individual who is living permanently in the United States after having been legally admitted;
- b) as of October 17, 1997, have applied for, or be a recipient of, or found eligible for a Spend-Down-through-Medicaid-benefits-through-DPA-and within 60 days of the date of application for HSP provide verification to the HSP counselor of the aforementioned. However, an individual is not required to meet the eligibility criteria for Medicaid to receive benefits, nor is Medicaid eligibility or verification of application required to receive Intermediate Services (see 99 Ill. Adm. Code 682.17 Individuals having applied for HSP services prior to October 17, 1997 may choose to apply for Medicaid;

eb) be a resident of the State of Illinois;

ec) be under the age of 60 at the time of application for HSP services, unless the individual is applying for services under the Medicaid Waiver for Persons with AIDS in which case there is no age criteria for application;

ed) have a severe disability which is expected to last for at least 12 months or for the duration of life;

ef) be an individual with a disability who is in need of long-term care, as determined by the DON score completed as a result of a prescreening (89 Ill. Adm. Code 679) or application for HSP services. In order to be determined to have met this criteria, the individual must receive a DON score of at least 15 points on part A, which includes, if applicable, the 10 points from the Mini-Mental Examination, with a total DON score of at least 29 points;

gf) prior to the provision of planned services through HSP, cooperate with DORS in obtaining certification from a physician that the plan of care is safe and adequate to meet the customer's needs obtain certification from a physician with DORS assistance that the individual is in need of long-term care and this care can safely and adequately be provided in the individual's home as provided on the HSP Service Plan developed for the individual;

hg) not require in-home services that are expected to cost more than the cost the State would pay for institutional care for an individual with a similar DON score;

h) if determined by DORS to be eligible to receive services through the Medicaid Waiver Program based on having income at or under the Poverty

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Standard and:

- 1) have received active services through HSP prior to July 1, 1995, apply for Medicaid prior to September 1, 1995; or
- 2) if applying for services on or after July 1, 1995, within 90 calendar days of the date of application for HSP services apply for, be determined eligible by DPA to receive, and provide DORS with verification of eligibility for Medicaid/Medicaid Spendown. In the event Medicaid eligibility, through no fault of the customer, customer's family, or other representative, is not determined and the customer cannot provide verification of eligibility to DORS within the initial 90 calendar day period, one additional 90 calendar day period for verification will be granted to the customer to provide this verification prior to case closure pursuant to 89 Ill. Adm. Code 684.80.

(Source: Amended at 19 Ill. Reg. _____, effective _____.)

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section 682.200 Assets Limitation

- a) Adult customers, age 18 years or above, may have no more than \$10,000 in customer-only non-exempt assets in order to receive services through HSP, regardless of whether the individual is seeking services through the Medicaid Waiver Program or State Funded Program.
- b) Minor customers, those under 18 years, may have no more than \$30,000 in total family non-exempt assets, regardless of whether the individual is seeking services through the Medicaid Waiver Program or the State Funded Program. In order to determine total family assets, the assets of the customer and all other individuals who contribute to the family unit, or rely on the family unit for support, shall be counted.

(Source: Amended at 19 Ill. Reg. _____, effective _____.)

Section 682.240 Income Allowances

The individual and his/her family must meet the income guidelines for the program or the individual will be required to participate in the cost-of-services (see Section 682.250).

- a) be at or below the Poverty Standard (89 Ill. Adm. Code 676.30) and apply for and accept Medicaid benefits through the DPA pursuant to 89 Ill. Adm. Code 110; or
- b) be over the Poverty Standard and agree to share in the cost of services from DORS pursuant to Section 682.250, below.

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eligibility, but if no such change, at least every six months.
(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 682.420 Impact on Program

If, as a result of redetermination, a customer who has applied for services on or after July 1, 1995 and, as appropriate, his/her family are determined to no longer be at or below the Poverty Standard in terms of income but meet all other eligibility criteria, services through the Medicaid Waiver Program shall be terminated and the customer's case closed. A new case will be opened immediately and added to the statewide waiting list for services through the State Funded Program. The customer shall then be offered services pursuant to 89 Ill. Adm. Code 676.30(z).

(Source: Added at 19 Ill. Reg. _____, effective _____)

SUBPART F: GRANDFATHERING PROVISIONS

Section 682.500 Exceptions to Eligibility Standards

An individual who was receiving planned services through any component of HSP prior to July 17, 1983, and has remained in a continuous active status since that time, and meets the current minimum DON point requirements may:

- have a planned service cost above the SCM established for that customer's DON score as established July 17, 1983;
- not have his/her cost share amount increased, as long as services remain at the same levels as prior to July 17, 1983, unless the customer chooses to cost share at a higher level; and
- have more than \$10,000.00 in non-exempt, customer-only assets.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 682.510 Exceptions to Cost Sharing Provisions

An individual served through the State Funded Program whose case was in an active status on or before April 1, 1987, and whose case has remained in an active status since that time with a cost share of less than 25% of excess income, less disability related expenses, ~~may continue to cost share at the lower percentage as previously established for the individual, unless the customer chooses to cost share at a higher rate.~~

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 682.250 Cost Sharing Provisions

- If the individual and his/her family are determined by DORS to have income in excess of the Poverty Standard, ~~income guidelines for a family--the size of the individual--the individual must participate in the cost of services in order to receive services through HSP.~~
- The amount of the cost share shall be 25% of the excess income of the family unit, less all disability related expenses (e.g., cost of special medical supplies, which are directly related to the individual's disability, etc.) ~~applicable attributable to the customer.~~
- Excess income shall be determined by adding all income for the family unit and subtracting the standard budget allowance for a family of that size. Any positive amount which results from this ~~equation~~ calculation shall be considered as excess income for the purpose of determining the cost share amount.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 682.260 General Exceptions to Cost Share Provisions (Repealed)

- ~~No cost sharing shall be required if the individual:~~
- ~~has applied for Medicaid benefits through BPA and has provided documentation verifying application for such benefits to the counselor;~~
 - ~~has been determined eligible to receive Medicaid benefits;~~
 - ~~has had a Medicaid Spend-Down established;~~
 - ~~is a recipient of SSI benefits; or~~
 - ~~is receiving only respite services (89-Ill-Adm-Code-676.30(f)).~~

(Source: Repealed at 19 Ill. Reg. _____, effective _____)

SUBPART E: REDETERMINATION OF ELIGIBILITY

Section 682.410 Redetermination Time Frames

- Any individual served under the ~~standard~~ Medicaid Waiver Program shall have his/her eligibility redetermined whenever there is a change in his/her condition or situation that may affect his/her continued eligibility, but if no such change, at least every twelve months.
- Any individual served under the Medicaid Waiver for Persons with AIDS shall have his/her eligibility redetermined whenever there is a change in his/her condition or situation that may affect his/her continued

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Section 682.530 Grandfathering Based on Implementation of Poverty Standard Provisions

All individuals receiving active services on or before June 30, 1995 who remain in active services after that date shall be assigned to the Medicaid Waiver Program (89 Ill. Adm. Code 676.30(q)) or the State Funded Program (89 Ill. Adm. Code 676.30(z)) based on the following criteria.

- a) All individuals who are receiving benefits through the Medicaid Program, are within the eligibility guidelines to receive Medicaid benefits, or are eligible for a Medicaid Spenddown shall be served through the HSP Medicaid Waiver Program.
- b) All individuals who do not meet the criteria in subsection (a) above shall be served through the HSP State Funded Program.

(Source: Added at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Program Description
- 2) Code Citation: 89 Ill. Adm. Code 676.
- 3) Section Numbers: Proposed Action:
676.10 Amendments
676.30 Amendments
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues Involved: In order to meet the budgetary constraints which result from the Governor's proposed budget for State Fiscal Year 1996 and maximize Federal Financial Participation available to the State to offset the cost of services for customers served through the Home Services Program (HSP), as of July 1, 1995 DORS is dividing HSP into two separate program components.

The first component, the Medicaid Waiver Program, will be available with open enrollment to eligible individuals who have income, as a family unit, at or below the Poverty Standard. As FFP is available to the State for services provided to these individuals, in order to receive services individuals served through the Medicaid Waiver Program will be required to apply for, accept, and maintain Medicaid eligibility through the Illinois Department of Public Aid. Current customers who are determined by DORS to have income at or below the Poverty Standard but who were determined eligible to receive services prior to July 1, 1995 will be required to apply for, accept and maintain Medicaid by September 1, 1995 in order to continue to receive services.

The second program component, the State Funded Program, will be available to the number of eligible individuals served by DORS, as of June 30, 1995, who have income, as a family unit, above the Poverty Standard. All individuals determined eligible by DORS to receive services through the State Funded Program on or after July 1, 1995 will be placed on a waiting list and offered services based on the criteria found in the proposed rulemaking at 89 Ill. Adm. Code 676.30(z).

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This is not

DEPARTMENT OF REHABILITATION SERVICES

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applicable to this Rulemaking.

- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429
Telephone number: (217) 785-3896
TTD/TTY (217) 785-9301

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.
- 13) State reasons for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: The Department had no indication that the budgetary impact was going to necessitate such stringent controls on the program.

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 676
PROGRAM DESCRIPTION

SUBPART A: GENERAL PROGRAM PROVISIONS

Section
676.10
676.110
676.20
676.30
676.40

Program Purpose and Types
General Program Accessibility
Definitions
Service Description

SUBPART B: CASE MANAGEMENT

Section
676.100
676.110
676.120
676.130
676.140
676.150

Case Files
Sharing of Customer Information Between HSP and Other DORS Programs
Documentation of Information
Required Customer Signatures and Information
Application by DORS' Employees, Individuals Holding Contracts with DORS, DORS Advisory Council Members, Family Members of DORS' Employees, or Close Friends of DORS' Employees
Geographic Case Assignment

SUBPART C: VENDOR PAYMENT

Section
676.200
676.210

Vendor Payment
Reporting and Collection of Misspent Funds

SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DON)

Section
676.300
676.310

Criteria for Referral to DON
Disposition of Cases not Appropriate for Referral to DON

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5095, effective March 21, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 676.10 Program Purpose and Types

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- a) The Department of Rehabilitation Services' (DORS') Home Services Program (HSP) is a Medicaid Waiver (42 CFR 440.180) and State funded program designed to prevent the unnecessary institutionalization of individuals who may instead be satisfactorily maintained at home at a lesser cost to the State.
- b) The Medicaid Waiver for the State of Illinois is administered by the Illinois Department of Public Aid (DPA), as the State's approved Medicaid agency. The operational responsibility for HSP, with the exception of Level II customer appeals (see 89 Ill. Adm. Code 510), rests with DORS.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 676.30 Definitions

For the purposes of this Subchapter, unless otherwise stated, the following terms shall have the following meanings.

- a) Activities of Daily Living (ADLs) - those tasks an individual must do, or which an individual must have provided for him/her, in order to prevent institutionalization (i.e., bathing, dressing, shopping, cooking, housekeeping, etc.).
- b) Customer - anyone who:
- 1) has been referred to HSP for a determination of eligibility for services;
 - 2) has applied for services through HSP;
 - 3) is receiving services through HSP;
 - 4) has received services through HSP; or
 - 5) is a parent, family member, guardian, or duly authorized representative of the individual, as appropriate.
- c) Counselor - for the purposes of this Subchapter, the term counselor shall mean the DORS' staff person in the local DORS office who has the responsibility for the day-to-day management of the HSP case and case managers for the AIDS Medicaid Waiver Program.
- d) Determination of Need (DON) - the assessment tool used to determine an individual's non-financial eligibility for HSP services based on the individual's impairment and need for care. This form measures the level of risk of institutionalization for the individual.
- e) DORS - Illinois Department of Rehabilitation Services
- f) DPA - Illinois Department of Public Aid
- g) Family - any one related by blood, marriage, or adoption to the individual seeking services through HSP or anyone with whom the individual has a close inter-personal relationship and who resides with the individual.
- h) Family Unit - for the purposes of determining financial eligibility, the number of persons derived when counting the individual seeking services through HSP and the number of persons in the household who are legally responsible for the individual seeking services and for

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whom the individual seeking services is legally responsible.

- i) HCFA - the Federal Health Care Financing Administration
- j) HSP - the Home Services Program
- k) Home - a private residence where the customer lives which is not an intermediate care or skilled nursing facility as defined at 89 Ill. Adm. Code 300, or a residential program operated by, or for which funding is provided by, the Illinois Department of Mental Health and Developmental Disability as defined at 59 Ill. Adm. Code 120. For the purpose of this Subchapter, the term "home" shall include domestic violence shelters as defined in Section 1(c) of the Domestic Violence Shelter Act (20 ILCS 2210/1(c)).
- l) Intermediate Care Facility (ICF) - a nursing facility that provides regular health related care to its residents, as well as those services necessary for safe and adequate living.
- m) Individual - the specific person to whom services are provided through HSP.
- n) Legally Responsible Family Member - a spouse, parent or a child who is 20 years of age or under, or a legal guardian of an individual who is under age 18.
- o) Medicaid - the Medicaid program administered by DPA under the Public Aid Code (305 ILCS 5/11).
- p) Medicaid Waiver - the waiver allowing HSP to claim federal reimbursement for approved levels of in-home care for individuals who would otherwise be placed in institutions for such care. The Medicaid Waiver is overseen at the federal level by HCFA.
- q) Medicaid Waiver Program - the component of HSP through which eligible customers will be provided services when it is determined that the customer and, as appropriate, the customer's family have income at or under the Poverty Standard, as defined in Subsection (t) below and non-exempt assets within the limits described at 89 Ill. Adm. Code 682.200. Reimbursement for services provided to eligible customers through this component of HSP will be sought through HCFA. Individuals served through this component of HSP are required to apply for Medicaid benefits through this component of HSP.
- q1) For Medicaid benefits through the Illinois Department of Public Aid so that DORS may receive reimbursement through the HCFA for services provided pursuant to 89 Ill. Adm. Code 682.100.
- q2) Personal Assistant (PA) - an individual employed by the customer to provide varied services approved by the customer's physician in the customer's home through HSP.
- q3) Physician - a licensed doctor of medicine (M.D.) or doctor of Osteopathy licensed pursuant to the Medical Practice Act (225 ILCS 60).
- t) Poverty Standard - an income level at or below the Poverty Line as established by the U.S. Office of Management and Budget and revised by the Secretary of the U.S. Department of Health and Human Services on an annual basis based on the Consumer Price Index for all Urban Consumers.
- u) Prescreening - an assessment to determine an individual's need for institutional care at the ICF or SNF level care, to ensure Medicaid

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payment for such a placement is appropriate, and the assessment as to whether or not HSP services are an appropriate alternative to institutional care for the individual.

- (v) Service Cost Maximum (SCM) - the maximum monthly amount which may be expended for HSP services for an eligible individual. This amount is determined based on the individual's DON score and the specific programmatic component of HSP through which the individual is being served.

- (w) Service Plan - specifically, the HOME SERVICES PROGRAM SERVICE PLAN (IL 488-1049) or HOME SERVICES PROGRAM SERVICE PLAN ADDENDUM (IL 488-1050) forms, on which all services to be provided an individual through HSP are listed.

- (x) Services - The necessary tasks provided to an individual, in one or more of the areas listed in Section 676.40 and listed on the individual's Service Plan, through HSP with the intent of preventing the unnecessary institutionalization of the individual.

- (y) Skilled Nursing Facility (SNF) - a group care facility, licensed by the Illinois Department of Public Health which provides skilled nursing care, extensive skilled nursing services, and other services under professional direction with frequent medical supervision that provides care and services necessary for the care of its residents who are in the advanced medical condition, as well as those services necessary for care and recovery testing.

- 2) State Funded Program - the component of HSP through which eligible customers will be provided services when it is determined that the customer and, as appropriate, the customer's family have income in excess of the Poverty Standard, as defined in subsection (t) above, and assets within the limits described at 89 Ill. Adm. Code 682.200. No federal reimbursement is available to DORS for services provided to such customers. An eligible customer who is receiving services through the State Funded Program and, as appropriate, the customer's family shall be required to participate in the cost of services pursuant to 89 Ill. Adm. Code 682.250. The number of customers who may receive services through the State Funded Program shall be limited to the number of customers receiving services as of June 30, 1995 who have not been determined by DPA to meet Medicaid guidelines. A new customer may begin receiving services only when an active customer is terminated from the State Funded Program. All customers determined eligible to receive services on or after January 1, 1995 shall be placed on a statewide waiting list for services. When a vacancy exists, the eligible customer in the State with highest DON score (89 Ill. Adm. Code 679) shall be offered services. In the event two or more customers have the same DON score, services shall be offered first to the individual in the State first determined eligible to receive services through HSP. In the event two or more cases have the same DON score (89 Ill. Adm. Code 679) and eligibility determination date, services will be offered first to the individual whose case has the lowest case number.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Service Planning and Provision2) Code Citation: 89 Ill. Adm. Code 6843) Section Numbers:
684.70 Proposed Action:
684.80 Amendments
684.80 Amendments4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues Involved: In order to meet the budgetary constraints which result from the Governor's proposed budget for State Fiscal Year 1996 and maximize Federal Financial Participation available to the State to offset the cost of services for customers served through the Home Services Program (HSP), as of July 1, 1995 DORS is dividing HSP into two separate program components.

The first component, the Medicaid Waiver Program, will be available with open enrollment to eligible individuals who have income, as a family unit, at or below the Poverty Standard. As FFP is available to the State for services provided to these individuals, in order to receive services individuals served through the Medicaid Waiver Program will be required to apply for, accept, and maintain Medicaid eligibility through the Illinois Department of Public Aid. Current customers who are determined by DORS to have income at or below the Poverty Standard but who were determined eligible to receive services prior to July 1, 1995 will be required to apply for, accept and maintain Medicaid by September 1, 1995 in order to continue to receive services.

The second program component, the State Funded Program, will be available to the number of eligible individuals served by DORS, as of June 30, 1995, who have income, as a family unit, above the Poverty Standard. All individuals determined eligible by DORS to receive services through the State Funded Program on or after July 1, 1995 will be placed on a waiting list and offered services based on the criteria found in the proposed rulemaking at 89 Ill. Adm. Code 676.30(2).

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this part? No

10) Statement of Statewide Policy Objectives: This is not applicable to this

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Rulemaking.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Warner, Manager
Regulations and Procedures Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429

Telephone number: (217) 785-3896
TTD/TTY: (217) 785-9301

If, because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses.

13) State reasons for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: The Department had no indication that the budgetary impact was going to necessitate such stringent controls on the program.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 684
SERVICE PLANNING AND PROVISION

Section	Service Plan
684.10	Procuring an Appropriate Service Provider
684.20	Family Members as Service Providers
684.30	Distribution of the Service Plan
684.40	Service Plan Content
684.50	Provision of Services
684.60	Service Planning Limitations
684.70	<u>Interim-Services</u> Based on Presumptive Eligibility
684.80	Coordination of HSP and Other Services
684.90	Denial or Termination of HSP Services
684.100	

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5129, effective March 21, 1995; amended at 19 Ill. Reg. _____, effective _____.

Section 684.70 Service Planning Limitations

- For individuals served through the **standard** Medicaid Waiver Program and State Funded Program, all services listed on the Service Plan must be necessary to meet an unmet care need of the individual or, for respite cases, to provide relief to the caregiver, and must be within the SCM for the DON score attained by the individual as a result of the determination or redetermination of eligibility.
- For individuals receiving services through the Medicaid Waiver for Persons with AIDS, all services listed on the Service Plan must be necessary to meet an unmet care need of the individual or, for respite cases, to provide relief to the caregiver, and must be within the SCM for the DON score attained by the individual as a result of the determination or redetermination of eligibility.
- The SCM may be exceeded for ventilator assisted individuals (VAIs) who are receiving HSP services but have had established, through DPA, a higher rate less the cost of supplies and equipment established by DPA for institutional placement. In such cases, the amount that may be expended for HSP services shall not exceed the special care rate established for that individual by DPA.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF REHABILITATION SERVICES

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Section 684.80 Interim-Services Based on Presumptive Eligibility

For individuals expected to be eligible for services through the Medicaid Waiver Program, ~~interim~~ prior to determination of eligibility (89 Ill. Adm. Code 681), the individual may receive ~~interim~~ services while an official determination of eligibility (89 Ill. Adm. Code 681) is being completed. These services may be provided for a maximum of 90 calendar days by which time the individual must meet all eligibility criteria, except Medicaid eligibility, if eligibility has not been determined through no fault of the customer or customer's family, or other representative, to receive planned services or his/her case will be closed. In the event Medicaid eligibility has not been determined through no fault of the customer, customer's family, or other representative, services may be continued for an additional 90 calendar day period prior to the time the case is closed. These services will be provided to an individual if enough information exists to presumptively establish eligibility based on:

- DON score;
- evidence of a disability as described at 89 Ill. Adm. Code 681.100(e) based on medical documentation, counselor observation, or oral information received from a knowledgeable medical professional;
- the individual's financial eligibility, per 89 Ill. Adm. Code 681: Subpart C;
- the individual meets all eligibility criteria as listed in 89 Ill. Adm. Code 682; and
- written or verbal approval from the individual's physician as to the appropriateness and safety of the interim service plan agreed to and signed by the customer and the counselor.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Proposed Action:
130.1995 Amendment
- 4) Statutory Authority: 35 ILCS 120
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the Department's rule concerning the Retailers' Occupation Tax Act to provide that sellers of personalized greeting cards do not incur Retailers' Occupation Tax liability on their receipts from such sales because they are engaged in a service occupation in producing such items, which have no commercial value for their customers.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
130.501	Amendment	10/14/94, 18 Ill. Reg. 15383
130.502	Amendment	10/14/94, 18 Ill. Reg. 15383
130.510	Amendment	10/14/94, 18 Ill. Reg. 15383
130.540	Amendment	10/14/94, 18 Ill. Reg. 15383

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State Mandate, nor does it modify any existing State Mandates.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Office of General Counsel
101 West Jefferson
Springfield, Illinois 62794
Phone: (217)782-6996

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: Any small business that sells personalized greeting cards.
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: No additional skills are needed

- 13) State reasons for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
130.101 Character and Rate of Tax
130.105 Responsibility of Trustees, Receivers, Executors or Administrators
130.110 Occasional Sales
130.111 Sale of Used Motor Vehicles by Leasing or Rental Business
130.115 Habitual Sales
130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section
130.201 The Test of a Sale at Retail
130.205 Sales for Transfer Incident to Service
130.210 Sales of Tangible Personal Property to Purchasers for Resale
130.215 Further Illustrations
130.220 Sales to Lessors of Tangible Personal Property

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section
130.305 Farm Machinery and Equipment
130.310 Food, Drugs, Medicines and Medical Appliances
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol
130.321 Fuel Used by Air Common Carriers in International Flights
130.325 Graphic Arts Machinery and Equipment Exemption
130.330 Manufacturing Machinery and Equipment
130.335 Pollution Control Facilities
130.340 Rolling Stock
130.345 Oil Field Exploration, Drilling and Production Equipment
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section
130.401 Meaning of Gross Receipts
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410 Cost of Doing Business Not Deductible

DEPARTMENT OF REVENUE

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130.415 Transportation and Delivery Charges
130.420 Finance or Interest Charges--Penalties--Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section
130.501 Monthly Tax Returns--When Due--Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances

130.540 Returns on a Transaction by Transaction Basis

130.545 Registrants Must File a Return for Every Return Period

130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances

130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel

130.555 Vending Machine Information Returns

130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section
130.601 Preliminary Comments
130.605 Sales of Property Originating in Illinois
130.610 Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section
130.701 General Information on Obtaining a Certificate of Registration
130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration
130.720 Separate Registrations for Different Places of Business of Same

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NOTICE OF PROPOSED AMENDMENT

Taxpayer Under Some Circumstances

130.725 Display
 130.730 Replacement of Certificate
 130.735 Certificate Not Transferable
 130.740 Certificate Required For Mobile Vending Units
 130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section
 130.801 General Requirements
 130.805 What Records Constitute Minimum Requirement
 130.810 Records Required to Support Deductions
 130.815 Preservation and Retention of Records
 130.820 Preservation of Books During Pendency of Assessment Proceedings
 130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
 130.901 Civil Penalties
 130.905 Interest
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SUBPART J: BINDING OPINIONS

Section
 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
 130.1101 Definition of Federal Area
 130.1105 When Deliveries On Federal Areas Are Taxable
 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

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SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

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 130.1301 When Lessee of Premises Must File Return for Leased Department

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130.1305 When Lessor of Premises Should File Return for Leased Department
 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section
 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
 130.1410 Requirements for Certificates of Resale (Repealed)
 130.1415 Resale Number--When Required and How Obtained
 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
 130.1501 Claims for Credit--Limitations--Procedure
 130.1505 Disposition of Credit Memoranda by Holders Thereof
 130.1510 Refunds
 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section
 130.1601 When Returns are Required After a Business is Discontinued
 130.1605 When Returns Are Not Required After Discontinuation of a Business
 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
 130.1801 When Powers of Attorney May be Given
 130.1805 Filing of Power of Attorney With Department
 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section
 130.1901 Addition Agents to Plating Baths
 130.1905 Agricultural Producers
 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage

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Stamps and Like Articles
 Auctioneers and Agents
 Barbers and Beauty Shop Operators
 Blacksmiths
 Chiropractors, Osteopaths and Chiropractors
 Computer Software
 Construction Contractors and Real Estate Developers
 Co-operative Associations
 Dentists
 Enterprise Zones
 Farm Chemicals
 Finance Companies and Other Lending Agencies - Installment Contracts
 - Repossessions
 Florists and Nurserymen
 Hatcheries
 Operators of Games of Chance and Their Suppliers
 Optometrists and Opticians
 Pawnbrokers
 Peddlers, Hawkers and Itinerant Vendors
 Personalizing Tangible Personal Property
 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
 Sales by Teacher-Sponsored Student Organizations
 Exemption Identification Numbers
 Sales by Nonprofit Service Enterprises
 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
 Persons Who Repair or Otherwise Service Tangible Personal Property
 Physicians and Surgeons
 Picture-Framers
 Public Amusement Places
 Registered Pharmacists and Druggists
 Retailers of Clothing
 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
 Sales and Gifts By Employers to Employees
 Sales by Governmental Bodies
 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
 Sales of Automobiles for Use in Demonstration
 Sales of Containers, Wrapping and Packing Materials and Related Products
 Sales To Construction Contractors, Real Estate Developers and Speculative Builders
 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
 Sales to or by Banks, Savings and Loan Associations and Credit

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NOTICE OF PROPOSED AMENDMENT

Unions
 Sales to Railroad Companies
 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
 Sellers of Feeds and Breeding Livestock
 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
 Sellers of Seeds and Fertilizer
 Sellers of Machinery, Tools and the Like
 Suppliers of Persons Engaged in Service Occupations and Professions
 Trading Stamps and Discount Coupons
 Undertakers and Funeral Directors
 Vending Machines
 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
 Vendors of Meals
 Vendors of Memorial Stones and Monuments
 Vendors of Signs
 Vendors of Steam
 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
 Veterinarians
 Warehousemen
 ILLUSTRATION A: Examples of Tax Exemption Cards
 AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].
 SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767,

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effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. _____, effective _____.

SUBPART S: SPECIFIC APPLICATIONS

Section 130.1995 Personalizing Tangible Personal Property

a) When The Tax Applies

- 1) Thermometers, pencils, pens, mirrors, silverware, notebooks, diaries, baby books, guest registers and other similar books of general utility for the recording of information, brief cases, wallets, toys, paper weights, pins and other jewelry, watches, rulers, match books, playing cards, blotters, calendars, greeting cards, bags and other fairly standard salable containers, napkins, dishes (whether made from paper or some other material), handkerchiefs and other articles of merchandise which bear the name, monogram or trade-mark of the purchaser or of some other person, or which bear advertising inscriptions of the purchaser or of some other person, have intrinsic usefulness and general utility and so have commercial value (i.e., value to persons other than the purchaser), notwithstanding the fact that such items are personalized for the purchaser by the seller by printing, engraving or some other process by means of which the purchaser's name, monogram, trade-mark or special advertising matter is placed upon the article for the purchaser by the seller.
- 2) Retail vendors of such items incur Retailers' Occupation Tax liability. This is also true even if the seller produces such items only upon receipt of an order therefor. The value or size of the article sold is not material.
- 3) For information concerning what constitutes a "sale at retail"

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

see Subpart B of this Part. For information concerning the taxability or exemption of receipts from personalizing charges where the seller incurs Retailers' Occupation Tax liability despite his furnishing of a personalizing service as an incident to the sale, see Section 130.450 of this Part.

b) When The Tax Does Not Apply

- 1) Sellers of personalized business calling cards, greeting cards, letterheads, envelopes, labels, name plates, badges, medallions and the like do not incur Retailers' Occupation Tax liability on their receipts from such sales because they are primarily engaged in a service occupation in producing or procuring such items, which have no commercial value for their customers.
- 2) Persons who personalize tangible personal property which already belongs to their customers also are engaged primarily in a service occupation and do not incur Retailers' Occupation Tax liability upon their receipts from engaging in such service occupation.
- 3) For information concerning the application of the Service Occupation Tax to the purchase and retransfer of tangible personal property by servicemen as an incident to sales of service, see the Service Occupation Tax Regulations.

(Source: Amended at 19 Ill. Reg. _____, effective _____.)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Certificates of Title, Registration of Vehicles

- 2) Code Citation: 92 Ill. Adm. Code 1010

- 3) Section Number Proposed Action
1010.457 New Section

- 4) Statutory Authority: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

- 5) A Complete Description of the Subjects and Issues Involved:
Rules and Regulations regarding Korean War Veteran registration and plates.

- 6) Will this proposed rule replace an emergency rule currently in effect?
No.

- 7) Does this rulemaking contain an automatic repeal date? No.

- 8) Do these proposed amendments contain incorporation by reference? No.

- 9) Are there any other amendments pending on this part? No.

- 10) Statement of Statewide Policy Objectives:

This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking. Written comments may be submitted within 45 days to:

Robert B. Powers
Assistant Counsel
Secretary of State's Office
298 Howlett Building
Springfield, Illinois 62756
(217)785-3094

- 12) Initial Regulatory Flexibility Analysis:

After careful consideration, the Secretary of State does not feel this proposed rulemaking will affect any types of small business and the proposed rule has not been submitted to the Small Business Office of the Department of Commerce and Community Affairs.

- 13) State reason(s) for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

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NOTICE OF PROPOSED AMENDMENT(S)

The full text of the proposed rules begins on the next page:

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NOTICE OF PROPOSED AMENDMENT(S)

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

Section
1010.10
1010.20

Owner--Application of Term
Secretary and Department

SUBPART B: TITLES

Section
1010.110

Salvage Certificate--Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate
Salvage Certificate--Assignments and Reassignments
Exclusiveness of Lien on Certificate of Title
Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards
Transferring Certificates of Title Upon the Owner's Death
Repossession of Vehicles by Lienholders and Creditors
Junking Notification

SUBPART C: REGISTRATION

Section
1010.210
1010.220
1010.230
1010.240
1010.250

Application for Registration
Vehicles Subject to Registration--Exceptions
Refusing Registration or Certificate of Title
Registration Plates To Be Furnished By The Secretary of State
Applications For Reassignment

SUBPART D: REVOCATION, SUSPENSION AND CANCELLATION OF REGISTRATION

Section
1010.300
1010.310
1010.320
1010.330
1010.350
1010.360

Operation of Vehicle after Cancellation, Suspension, or Revocation of any Registration
Improper Use of Evidences of Registration
Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards and Titles
Operation of Vehicle Without Proper Illinois Registration
Suspension or Revocation
Surrender of Plates, Decals or Cards

SUBPART E: SPECIAL PERMITS AND PLATES

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Temporary Registration--Individual Transactions
Temporary Permit Pending Registration In Illinois
Non-Resident Drive-Away Permits
Five Day Permits
Registration Plates for Motor Vehicles Used for Transportation of Persons for Compensation and Tow Trucks
Title and Registration of Vehicles with Permanently Mounted Equipment

Section
1010.410
1010.420
1010.425
1010.426
1010.430
1010.440
1010.440
1010.450
1010.451
1010.452
1010.453
1010.454
1010.455
1010.456
1010.457
1010.460
1010.470
1010.480

Special Plates
Purple Heart License Plates
Special Event License Plates
Retired Armed Forces Licenses Plates
Gold Star License Plates
Collectible License Plates
Sample License Plates For Motion Picture and Television Studios
Korean War Veteran License Plates
Special Plates for Members of the United States Armed Forces Reserves
Dealer Plate Records
State of Illinois In-Transit Plates

SUBPART F: FEES

Section
1010.510
1010.520
1010.530
1010.540

Determination of Registration Fees
When Fees Returnable
Circuit Breaker Registration Discount
Maximum Fees for Distribution of Motor Vehicle Renewal Plates and/or Stickers

SUBPART G: MISCELLANEOUS

Section
1010.610
1010.620

Unlawful Acts, Fines and Penalties
Change of Engine

SUBPART H: SECOND DIVISION VEHICLES

Section
1010.705
1010.710
1010.715
1010.720
1010.725
1010.730
1010.735
1010.740

Reciprocity
Vehicle Proration
Proration Fees
Vehicle Apportionment
Trip Leasing
Intrastate Movements, Foreign Vehicles
Interline Movements
Trip and Short-term Permits

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NOTICE OF PROPOSED AMENDMENT(S)

- 1010.745 Signal 30 Permit for Foreign Registration Vehicles (Repealed)
- 1010.750 Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed)
- 1010.755 Mileage Tax Plates
- 1010.756 Suspension or Revocation of Illinois Mileage Weight Tax Plates
- 1010.760 Transfer for "For-Hire" Loads
- 1010.765 Suspension or Revocation of Exemptions as to Foreign Registered Vehicles
- 1010.770 Required Documents for Trucks and Buses to detect "intrastate" movements
- 1010.775 Certificate of Safety

- APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement
- APPENDIX B International Registration Plan

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

SOURCE: Filed and effective December 15, 1970; emergency amendments at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective May April 11, 1980; emergency amendments at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 1245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill. Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. _____, effective _____.

SUBPART E: SPECIAL PERMITS AND PLATES

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

Section 1010.457 Korean War Veteran License Plates

- a) For purposes of this Section, the following definitions shall apply: "First Division" vehicles - motor vehicles which are designed for carrying of not more than 10 (ten) persons as defined in Section 1-116 of the Illinois Vehicle Code [625 ILCS 5/1-116]. "Second Division" vehicles - motor vehicles which are designed for carrying more than 10 (ten) persons, those motor vehicles designed or used for living quarters, those motor vehicles which are designed for pulling or carrying freight, cargo, or implements of husbandry, and those motor vehicles of the First Division remodelled for use and used as motor vehicles of the Second Division as defined in Section 1-116 of the Illinois Vehicle Code [625 ILCS 5/1-116].
- b) Any resident of the State of Illinois who participated in the United States Armed Forces during the Korean War may apply for a Korean War Veteran registration plate in accordance with Section 3-626 of the Illinois Vehicle Code [625 ILCS 5/3-626]. An applicant wishing to obtain Korean War Veteran plates shall submit proof of military service between June 27, 1950 within the territorial limits of Korea or in waters immediately adjacent thereto or has been issued the Korean War Service Medal. Proof shall consist of a copy of his/her discharge from the military (DD214) indicating applicant received a Korean War Service Medal (KSM) or a "letter of verification" from the Illinois Department of Veterans' Affairs.
- c) These special registration plates shall only be issued for first division vehicles, second division vehicles weighing 8,000 pounds or less, and recreational vehicles as defined by Section 1-169 of the Illinois Vehicle Code [625 ILCS 5/1-169].
- d) Applicants shall also submit a \$15 (fifteen dollar) fee plus the statutory annual registration fee as specified in Section 3-806 of the Illinois Vehicle Code. The applicant shall also pay an additional \$2 (two dollar) fee at each renewal.
- e) In order to obtain Korean War Veteran plates:
- 1) If the present Illinois license plates expire within sixty (60) days, upon receipt of the preprinted renewal application, the applicant shall submit the proper documentation as cited in subsection (b) of this Section, the annual registration fee as specified in Section 3-806 of the Illinois Vehicle Code, plus original issuance fee of \$15 as prescribed under Section 3-626 of the Illinois Vehicle Code; or
 - 2) If the present plates do not expire within sixty (60) days, the applicant shall submit an Application for Vehicle Title and Registration (VSD190.12A) indicating the current registration identification card, verification as required in subsection (b), and the original issuance fee of \$15. The applicant shall also pay a reclassification fee as provided in Section 3-802 of the Illinois Vehicle Code.
- f) All applications and inquiries regarding the Korean War Veteran plates

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

should be directed to the following:

Office of the Secretary of State
Non-Standard Plates Section
Room 539, Michael Howlett Building
Springfield, Illinois 62756

(Source: Added at 19 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances

2) Code Citation: 41 Ill. Adm. Code 170

3) Section Numbers:	Adopted Action:
170.10	Amended
170.20	Repealed
170.40	Repealed
170.41	Repealed
170.50	Repealed
170.60	Repealed
170.65	Repealed
170.70	Repealed
170.71	Repealed
170.72	Repealed
170.76	Repealed
170.90	Repealed
170.100	Repealed
170.105	Repealed
170.106	Repealed
170.107	Repealed
170.108	Repealed
170.110	Repealed
170.400	Repealed
170.410	Repealed
170.411	New
170.412	New
170.420	Amended
170.421	New
170.422	New
170.423	New
170.424	New
170.425	New
170.426	New
170.427	New
170.428	New
170.430	Amended
170.431	New
170.440	Amended
170.441	New
170.442	New
170.450	Amended
170.460	Amended
170.470	Amended
170.480	Amended
170.481	New
170.490	Amended

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

170.500 Amended
 170.510 Amended
 170.520 Amended
 170.530 Amended
 170.540 Amended
 170.541 New
 170.542 New
 170.543 New
 170.544 New
 170.445 New
 170.546 New
 170.550 Amended
 170.560 Amended
 170.570 Amended
 170.580 Amended
 170.590 Amended
 170.600 Amended
 170.610 Amended
 170.620 Amended
 170.630 Amended
 170.640 Amended
 170.650 Amended
 170.660 Amended
 170.670 Amended
 170.672 New
 170.700 Repealed, New
 170.705 New
 170.710 New
 170.720 New
 170.730 New
 170.740 New
 170.750 New
 170.760 New
 170.770 New
 170.780 New
 170.790 New
 170.795 New
 170.800 Amended
 170.810 Amended
 170.820 Amended
 170.830 Amended
 170.850 Amended
 170.860 Repealed
 170.880 Amended
 170.890 Amended
 170.900 Amended
 170.910 Amended
 170.920 New

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

- 170.930 New
 170.940 New
 170.1000 New
 170.1100 New
 170.1200 New
 170.1300 New
 170.Appendix A New
 170.Appendix B New
 170.Appendix C New
 170.Appendix D New
 170.Appendix E New
 170.Table A Amended
- 4) Statutory Authority: 430 ILCS 15
- 5) Effective Date of Rulemaking: April 1, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
If "yes", was a copy of the approval form issued by JCAR attached to this rulemaking? No, but it was approved February 7, 1995.
- 8) Date Filed in Agency's Principal Office: April 1, 1995
- 9) Notice of Proposal Published in Illinois Register: June 24, 1994, 18 Ill. Reg. 9106
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: The major difference is the appendices were added.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking:
 These Amendments incorporate changes which are required to be in conformity with statutory law. Also, they provide for a certification program for underground storage tank contractors.
- 16) Information and questions regarding these adopted amendments shall be directed to:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

Name: James I. McCaslin
 Address: Division of Petroleum and Chemical Safety
 Office of the State Fire Marshal
 1035 Stevenson Drive
 Springfield, Illinois 62703-4259
 Telephone: (217)785-1020 or (217)785-5878

- 17) State reasons for this rulemaking if it was not included in the two (2) most recent regulatory agendas:

The full text of the Adopted Amendment begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENTS

TITLE 41: FIRE PROTECTION
 CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 170

STORAGE, TRANSPORTATION, SALE AND USE OF
 PETROLEUM AND OTHER
 REGULATED SUBSTANCES

SUBPART A: MISCELLANEOUS

Section	
170.10	Definitions
170.11	Incorporation of National Standards
170.15	Bulk Sales Prohibited
170.20	Storage Underground and Limited <u>(Repealed)</u>
170.30	Setting of Tanks <u>(Repealed)</u>
170.40	Clearance Required for Underground Tanks <u>(Repealed)</u>
170.41	Location <u>(Repealed)</u>
170.50	Material and Construction of Tanks <u>(Repealed)</u>
170.60	Venting of Tanks <u>(Repealed)</u>
170.65	Underground Tank Installations <u>(Repealed)</u>
170.70	Fill Pipes <u>(Repealed)</u>
170.71	Registration of Underground Storage Tanks and Payment of Annual Fee <u>(Repealed)</u>
170.72	Late Registration Fee <u>(Repealed)</u>
170.75	Abandonment of Underground Storage Tanks <u>(Renumbered)</u>
170.76	Leaking Underground Tanks <u>(Repealed)</u>
170.80	Unloading Operations
170.90	Pumps <u>(Repealed)</u>
170.91	Labeling of Containers and Pumps
170.100	Piping <u>(Repealed)</u>
170.105	Approval of Plans <u>(Repealed)</u>
170.106	Installer, Repairer or Remover of Underground Storage Tanks <u>(Repealed)</u>
170.107	Tester of Underground Storage Tanks and Cathodic Protection <u>(Repealed)</u>
170.108	Pressure Testing <u>(Repealed)</u>
170.110	Building
170.115	Safe Heat Required
170.120	No Flammable or Combustible Liquids Within Building - Exception
170.130	Greasing Pits
170.140	Wash and Greasing Rooms
170.145	Fire Extinguishers
170.150	Self-Service - No Self-Service Without Permit; Procedures and Regulations
170.160	Care and Attendance
170.170	Fire Extinguishers <u>(Repealed)</u>
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TABLE B MANUAL--PARK--GAUGING---WEEKLY--AND-MONTHLY STANDARDS Manual Tank Gauging: Weekly and Monthly Standards

AUTHORITY: Implementing the Gasoline Storage Act [430 ILCS 15] and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

SOURCE: Rules and Regulations Relating to Service Stations filed July 10, 1958; amended March 6, 1963 and April 4, 1977; codified at 5 Ill. Reg. 10692; emergency amendment at 7 Ill. Reg. 1477, effective January 26, 1983, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 10058, effective June 29, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 9514, effective October 1, 1985; emergency amendment at 10 Ill. Reg. 345, effective January 1, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 12324, effective July 2, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 19976, effective January 5, 1987; amended at 12 Ill. Reg. 8023, effective April 26, 1988; emergency amendments at 13 Ill. Reg. 1886, effective January 27, 1989, for a maximum of 150 days; emergency expired June 26, 1989; amended at 13 Ill. Reg. 5669, effective April 21, 1989; amended at 13 Ill. Reg. 7744, effective May 9, 1989; amended at 13 Ill. Reg. 8515, effective May 23, 1989;

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amended at 13 Ill. Reg. 8875, effective May 24, 1989; amended at 13 Ill. Reg. 14992, effective September 11, 1989; amended at 14 Ill. Reg. 5781, effective April 10, 1990; amended at 15 Ill. Reg. 7042, effective April 29, 1991; amended at 16 Ill. Reg. 4845, effective March 12, 1992; emergency amendment at 17 Ill. Reg. 1186, effective January 12, 1993, for a maximum of 150 days; emergency expired June 11, 1993; amended at 19 Ill. Reg. **5467**, effective **APR 01 1995**.

SUBPART A: MISCELLANEOUS

Section 170.10 Definitions

- a) "ANSI" - American National Standards Institute.
- b) "ASTM" - American Society for Testing and Materials.
- c) Class I Liquids - See Flammable Liquids.
- d) Classes II and III liquids - See Combustible Liquids.
- e) "Combustible Liquids" are defined in NFPA 30 (Flammable and Combustible Liquids Code) (1987), known as Class II and III liquids. They are further subdivided into Class II, IIIa and IIIb liquids in NFPA 30.
- f) "Fire extinguisher ratings". Fire extinguisher ratings shall be determined by applying UL 711 (Fire Extinguishers, Rating and Testing of) (1987).
- g) Flammable liquids are defined in NFPA 30 (Flammable and Combustible Liquids Code) (1987), and are divided into Class Ia, Ib and Ic liquids.
- h) "Hazardous substance" means any substance listed in 49 CFR 382.47 (1987) but not including any substance regulated as a hazardous waste under 35 Ill. Adm. Code 3217.
- i) "Heating oil" means petroleum that is Not in Not 27 Not 4 light Not 4 heavy Not 5 light Not 5 heavy or Not 6 technical grades of fuel oil or other residual fuel oils including Navy Special fuel oil and Bunker C and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.
- j) "Installer"---Any person, corporation or other entity engaged in the installation of any underground storage tank or "UGST" and who is registered as such with the Office of the State Fire Marshal.

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k) "NFPA" - National Fire Protection Association. The standard number will appear in context. The edition will be referenced in parentheses. Where no edition appears, the edition in effect will be the 1988 edition.

l) "Owner" of a USP system means person who has legal or equitable title to a USP system which has or has had a regulated substance contained in it.

m) "Person" - For the purpose of paying any annual registration fee by any "installer," "remover," "repairer," or "tester," the term "person" refers only to corporations, partnerships or business entities.

n) "Person" means an individual, trust, firm, partnership, joint stock company, corporation, Federal agency, State, municipality, commission, unit of local government or political subdivision of the State or any interstate body. "Person" also includes a consortium, a joint venture or a commercial entity of the United States Government.

o) "Petroleum" (including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60° P and 14.7 pounds per square inch absolute)), includes but is not limited to petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading or finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants and petroleum solvents.

p) "Regulated substance" means any petroleum product or hazardous substance as defined in this Section.

q) "Remover" - Any person, corporation or other entity engaged in the removal of any underground storage tank or USP.

r) "Repairer" - Any person, corporation or other entity engaged in repairing any underground storage tank or USP.

s) "Service station" means any place of business where gasoline, fuel oil or any other volatile fuels for motor vehicles or internal combustion engines are sold or offered for retail sale, or dispensed into the fuel tanks of such motor vehicles, or into approved containers as defined in Section 170.150, except hobby shops and small engine repair facilities.

t) This definition shall include the private storage and dispensing of such products for the same purposes as those served by a service station, whether the storage is maintained for the use or benefit of the owner, lessee, agent or employees of either, or

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of any others.

2) The requirements covering service stations shall also govern underground storage maintained at general storage plants and places other than service stations, so far as applicable.

u) "Tester" - Any person engaged in the testing of any underground storage tank or USP for the purpose of determining whether a "UL" underground storage tank or USP is leaking or whether the cathodic protection system is functioning properly. Any such tester is required to be registered with the Office of the State Fire Marshal.

v) "UL" Underwriters Laboratories, Inc.

w) "Underground storage tank or USP" -

i) "Underground storage tank or USP" means any one or combination of tanks (including underground pipes and cathodic protection connected thereto) that is used to contain an accumulation of regulated substances and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. A tank containing less than four percent petroleum of the total volume of its contents and no hazardous substance is not an underground storage tank or USP. A tank system classified as a USP may not be reclassified as being a non-USP unless there has been a change in service as provided in Section 170.630. A non-USP system tank which is used to store a non-regulated substance may not be converted to a USP system tank unless the tank has been recertified by the manufacturer. A USP system does include an emergency power generator tank that stores any classification of fuel for use exclusively or alternately or concurrently by an emergency power generator except as otherwise excluded in subsections (i)(4) and (i)(5). The term "underground storage tank or USP" shall not include any pipes connected to any tank which is reserved in subsections (i)(4) through (i)(5). Underground storage tank or USP does not include any:

A) Part or residential tank of 170 gallons or less capacity used for storing motor fuel for noncommercial purposes;

B) Tank of 170 gallons or less capacity used exclusively for storing heating oil for consumption use on the premises where stored;

C) Septic tank;

D) Pipeline facility (including gathering lines);

i) Regulated under the National Pipeline Safety Act of 1968 (49 U.S.C. 161 et seq.);

ii) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001 et seq.); or

iii) Regulated under the Illinois Gas Pipeline Safety Act.

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1117-Rev.--Stat.--1987--Ch.--111-243--para--551-et seq.:

- B) Surface impoundment--pitt-pond-or-lagoon?
- P) Storm-water-or-water-waste-collection-system?
- G) Flow-through-process-tank?
- H) Liquid-trap-or-associated-gathering-line-directly-related-to oil-or-gas-production-and-gathering-operations?
- I) Storage-tank--situated--in--an--underground--area--such--as basement--cellar--mineworking--drift--shaft-or-tunnel--if the storage-tank is situated upon or above the surface of the floor and can be viewed from all sides.
- J) Tank--abandoned-by-filling-with-inert-material--in-compliance with-regulations-issued-by-the-Office-of--the-State-Fire Marshal--(Section-179-670)?
- K) Tank-with-a-capacity-less-than-110-gallons--or
- B) Hydraulic-lift-tank.

2) The--following--are--deferred--from--being-considered--UST-systems (whether single--or--double-wait-construction):

- A) Wastewater-treatment-tank-system?
- B) Any-UST-system-containing-radioactive-material--that-is regulated-under-the-Atomic-Energy-Act-of-1954-(42-50-201)?
- E) Any-UST-system--that-is-part-of--an-emergency-generation system--at--a-nuclear-power-generation-facility-regulated-by the-United-States-Nuclear-Regulatory-Commission?
- B) Airport-hydrant-fuel-distribution-system? and
- B) Any-UST-system-with-a-field-constructed-tank--(see-PR-371100? September-23--1980):

3) Although the systems specified in subsection (1) are exempt from the requirements in Sections 179-420 through 179-670, they are required to comply with the following:

- A) Be constructed to prevent releases due to corrosion or structural failure for the operational life of the UST system in accordance with API--Recommended--Practice--1632? "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"--Second Edition--December--1987--NACE Standard--Recommended--Practice--RP469-87--"Control of External Corrosion on Underground Submerged Metallic Piping Systems"--revised--January--1987--and--NACE--Recommended Practice--RP0295-85--"Control of External Corrosion on Metallic Buried Partially Buried or Submerged Liquid Storage Systems"--approved--March--1985--(see--Section 179-140)?
- B) Be cathodically protected (See Section 179-400 et seq.) against corrosion--consisted--of--non-corrodible--material--steel clad--with--a--non-corrodible--material--or--designed--in--a--manner to prevent the release or threatened release of any stored substance, in accordance with API--Recommended Practice 1632?

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"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"--Second Edition--December--1987--NACE Standard--Recommended--Practice--RP0295-85--"Control of External Corrosion on Underground Submerged Metallic Piping Systems"--revised--January--1987--and--NACE--Recommended Practice--RP0295-85--"Control of External Corrosion on Metallic Buried Partially Buried or Submerged Liquid Storage Systems"--approved--March--1985--(see--Section 179-140)?

- E) Be constructed or lined with material that is compatible with the stored substance; and
- W) "Upgrade" is the addition or retrofit of some portion of a UST system such as cathodic protection, lining or spill and overflow control to improve the ability of the UST to prevent the release of product.

(Source: Amended 19 Ill. Reg. 5467.1, effective APR 01 1995)

Section 170.20 Storage Underground and Limited (Repealed)

- A) Service station--storage shall be underground and the capacity of any single underground storage tank for Class I, II and III liquids shall not exceed 20,000 gallons;
- B) The total aggregate storage of Class I, II and III liquids shall be limited by the ability to achieve and maintain clearances--to basements--sewers--property lines and special classes of property in accordance with Sections 179-40 and 179-41 and clearance between tanks is a minimum of 12 inches.

(Source: Repealed at 19 Ill. Reg. 5467.1, effective APR 01 1995)

Section 170.40 Clearance Required for Underground Tanks (Repealed)

- A) Distance to Basement--Individual tanks shall be buried so that the tops of the tanks shall be lower than all floors, ceilings, cellars, pits of buildings with twenty feet or less of property or tanks and maintain a clearance of twenty feet at buildings with basements;
- B) Distance to Sewers--Individual tanks shall be buried so that the tops of the tanks shall be lower than the bottom level of all sewer manholes, catch basins, cesspools, septic tanks or other structures within twenty feet or of the property or tanks shall maintain a full clearance of twenty feet; therefore the term sewers includes a sewer line out of service station buildings provided however these clearances shall not be required to a sewer line out of a service station if such sewer line is constructed throughout of cast-iron with leaded joints.

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- e) Distance-to-property-lines--individual-tanks-shall-be-at-least-twenty feet-to-property-lines-provided-however-that-these-clearances-on the-side-adjacent-to-a-public-street-alley-or-highway-will-be-waived by-consent-of-the-authority-having-immediate-jurisdiction-over-the public-street-alley-or-highway-provided-that-the-required-sewer clearances-will-be-maintained.
- d) Distance-to-Special-Classes-of-Property--Tanks-and-pumps-shall maintain-a-clearance-of-not-less-than-300-feet-to-any-mine-shaft-air or--escape-shaft--for-any-mine-and-95-feet-to-any-school institutionally-public-assembly-or-theatre-occupancy-as-defined-in-41 Ill-Adm-Code-100-36--the-distance-shall-be-measured-from-the-nearest points-of--tanks-and-pumps-to-the-nearest-points-of-buildings-or shafts.
- e) Where-the-site-size-makes-compliance-with-these-clearance-requirements an-impossibility--Steel-Tank-Institutes-Protection-Prover-1-or-24 must-be-used.
- f) Tanks--in-service-on-October-17-1985-may-maintain-existing-underground tank-clearances-provided-they-are-in-conformity-with-rules--in-effect on-January-17-1984.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.41 Location (Repealed)

Excavation-for-underground-storage-tanks-shall-be-made-with-due-care-to-avoid undermining-of-foundations-of-existing-structures--Underground-tanks-or-tanks under-buildings-shall-be-located-with-respect-to-existing-building-foundations and-supports--so-that-the-loads-carried-by-the-latter-cannot-be-transmitted-to the-tank.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.50 Material and Construction of Tanks (Repealed)

- a) Underground--tanks-shall-meet-the-requirements-of-Underwriters Laboratories-Standard-UB-59-(1976).
- b) Metallic-tanks-shall-be-thoroughly-coated-on-the-outside-with-tar asphaltum-or-other-suitable-rust-resisting-material.
- c) Metallic-tanks-shall-not-be-surrounded-or-covered-by-cinders-or-other material-of-corrosive-effect--Corrosion-protection-must-be-provided-in accordance-with-NFPA-307-(1981)-2-3-3-where-soil-resistivity-is-10,000 ohm-centimeters-or-less--Such-corrosion-protection-shall-be-in accordance-with-American-Petroleum-Institute-publication-1615-(1977).
- d) Underground-steel-tanks-but-not-to-Steel-Tank-Institute-Standard-P37 (1984)-are-approved-provided-that-they-are-installed-according-to-the manufacturer's-specifications.

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- e) Non-metallic-tanks-meeting-the-requirements-of-UB-57-(1983)-may-be used-for-underground-storage-provided-they-are-installed-according-to the-manufacturer's-instructions.
- f) To-prevent-penetration-of-the-tank-bottom-all-non-metallic-tanks shall-be-equipped-with-steel-striker-plates-on-the-tank-bottom immediately-below-any-opening-which-might-be-used-for-taking-dipstick measurements.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.60 Venting of Tanks (Repealed)

- a) Each-tank-shall-be-provided-with-a-vent-pipe-connected-with-the-top of-the-tank-and-carried-up-to-the-outlet-air--The-pipe-shall-be arranged-for-proper-drainage-to-storage-tank-and-its-lower-end-shall not-extend-through-top-of-tank-for-a-distance-of-more-than-one-inch; it-shall-have-no-traps-or-pockets.
- b) Upper-end-of-the-pipe-must-be-provided-with-an-updraft-vent-device only-with-40-gauge-screening.
- c) Vent-pipe-shall-be-of-sufficient-cross-sectional-area-to-permit-escape of-air-and-vapor-during-the-filling-operation-and-in-compliance-with NFPA-30-(1981)-and-in-no-case-less-than-one-and-one-fourth-inch-in diameter--If-a-power-pump-is-used-in-filling-storage-tank-and-a-tight connection-is-made-to-the-fill-pipe--the-vent-pipe-shall-not-be smaller-than-the-fill-pipe.
- d) Vent-pipe-shall-terminate-outside-of-building-not-less-than-twelve feet-above-top-of-fill-pipe--not-less-than-four-feet-measured vertically-and-horizontally-from-any-window-or-other-building-opening into-the-basement--cellar-or-pit-of-any-building-and-in-a-location which-will-not-permit-pocketing-of-vapor-or-liquid--If-a-tight connection-is-made-in-the-filling-line--the-terminus-of-the-vent-pipe shall-be-carried-to-a-point-one-foot-above-the-level-of-the-nearest reservoir-from-which-tank-may-be-filled.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.65 Underground Tank Installations (Repealed)

- a) Steel-underground-tanks-shall-be-set-on-a-firm-foundation--and surrounded-with-at-least-12-inches-of-non-corrosive-insulation--such-as-clean-sand-or-gravel-well-tamped-in-place--The-tank-shall-be placed-in-the-hole-with-care--since-dropping-or-rolling-the-tank-into the-hole-can-break-a-weld--puncture-or-damage-the-tank-or-seal-off the-protective-coating-of-coated-tanks.
- b) Steel-underground-tanks-shall-be-covered-with-a-minimum-of-three-feet of-earth--Tanks-existing-on-October-17-1985-must-be-butted-so-that-the

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- tops of the tanks will not be less than 2' below the surface of the ground or beneath 12" of earth and a slab of reinforced concrete not less than 4" in thickness; the slab shall be set on a firm well tamped earth foundation and shall extend at least 1' beyond the outline of the tank in all directions; When asphaltic or reinforced paving is used as part of the protection, it shall extend at least one foot horizontally beyond the outline of the tank in all directions.
- c) Non-metallic underground tanks shall be installed in accordance with the manufacturer's instructions; the minimum depth of cover shall be as specified in Subsection (b) for steel tanks.
- d) The diameter of all non-metallic tanks shall be measured before and after back-filling; if deflection of the tank exceeds the maximum allowed in the following table, then the Office of the State Fire Marshal and the manufacturer of the tank shall be notified prior to the tank being placed in use.

Tank Diameter Maximum Deflection

6-ft-	5/8-inch
8-ft-	1-inch
10-ft-	1 1/2-inch
12-ft-	1 1/2-inch

NOTE: Excessive deflection of tank may cause cracking or may cause section line to penetrate the bottom of the tank.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.70 Fill Pipes (Repealed)

- a) Fill pipes shall be carried to a location outside of any building as remote as possible from any doorway or other opening into any building and in no case closer than five feet from any such opening.
- b) Location shall be in a place where there is minimum danger of breakage from trucks or other vehicles.
- c) Each fill pipe shall be closed by a screw cap or other tight-fitting cap; of a type which can be locked; the cap shall be locked at all times when filling or gauging process is not going on.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.71 Registration of Underground Storage Tanks and Payment of Annual Fee (Repealed)

- a) The owner of any underground tank used to store regulated substances since January 1, 1974, shall register any such tank on a form prescribed by the Office of the State Fire Marshal and the owner of any registered underground petroleum storage tank shall pay an annual

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- fee of \$100 per tank on or before 90 days from the date on the invoice requesting payment of the fee; the payment is to be by check or money order made payable to the Office of the State Fire Marshal.
- b) Any change in information on the form as referred to in subsection (a) shall be submitted by the owner to the Office of the State Fire Marshal on an amended form as prescribed by the Office within 90 days commencing from the date of such change.
- c) Any owner subsequent to the owner as specified in subsection (a) shall report any change in information in the time and manner as specified in subsection (b); a change in ownership is considered a change in information and is the responsibility of each subsequent owner to so report.
- d) The owner of an underground storage tank with a capacity greater than 1100 gallons used exclusively to store heating oil for consumption use on the premises where stored is not required to pay the annual fee; however, the owner may optionally pay the annual fee and thereby cause the tank to be eligible to obtain access to the Underground Storage Tank Fund established in Section 4-6 of the ILL. REV. STAT. 1987, CH. 127, PAR. 567.7.
- e) Once the owner of an underground storage tank used to store heating oil as described in subsection (d) has caused the tank to be eligible to obtain access to the Underground Storage Tank Fund established in Section 4-6 of the ILL. REV. STAT. 1987, CH. 127, PAR. 567.7, the owner shall be subject to the use of gasoline and volatile oil; the tank is subject to each subsequent annual fee assessment; and
- f) An underground storage tank used to store heating oil as described in subsection (d) may not be subsequently used to store a different regulated substance.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.72 Late Registration Fee (Repealed)

The owner of any underground storage tank which contained petroleum or petroleum products or hazardous substances required to be registered with the Office of the State Fire Marshal between January 1, 1974, and September 24, 1987, and who did not so register shall do so and pay the Office of the State Fire Marshal a registration fee of \$500 per tank by check or money order made payable to the Office of the State Fire Marshal.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.76 Leaking Underground Tanks (Repealed)

- a) Leaking Underground Storage Tanks ----- When a tank is determined to be

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piers--wharves--or--floating--docks--on--shore--or--on--piers--of--the solid--fill--type--and--shall--be--located--away--from--other--structures--so--as to--provide--room--for--safe--ingress--and--egress--of--craft--to--be--towed.

k) Dispensing--units--existing--prior--to--September--15--1978--may--be--located inside--buildings--if--specific--written--approval--of--the--Office--of--the State--Fire--Marshal--was--granted--The--dispensing--area--shall--be separated--from--other--areas--by--two--hour--fire--resistive--construction--as defined--in--Section--1407--of--the--Basic--Building--Code--(1981)--published--by Building--Officials--and--Code--Administrators--International--Inc--The dispensing--area--shall--be--provided--with--a--mechanical--or--gravity ventilation--system--all--components--of--which--shall--comply--with--the requirements--of--NFPA--No--70--Chapter--5--(1981).

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.100 Piping (Repealed)

Materials and Design

- a) Piping--valves--and--fittings--for--flammable--liquids--shall--be--designed for--the--working--pressures--and--structural--stresses--to--which--they--may--be subjected--They--may--be--of--steel--or--other--materials--suitable--for--use with--the--liquid--being--handled--Pipe--wall--thickness--determined--in accordance--with--Section--3--of--the--American--National--Standard--Code--for Pressure--Piping--(A.N.S.I--B31--(1983))--shall--be--deemed--to--comply--with this--section--except--that--carbon--steel--pipe--shall--not--be--thinner--than standard--wall--thickness--listed--in--the--American--Standard--for Wrought--Steel--and--Wrought--Iron--Pipe--(A.N.S.I--B36--(1983)).
- b) Non-metallic--piping--systems--conforming--to--the--requirements--of--A.N.S.I--B31--(1983)--for--use--with--flammable--and--combustible--liquids--are permitted--underground.
- c) After--installation--piping--shall--be--tested--for--30--minutes--at--a pressure--50--percent--in--excess--of--the--working--pressure--and--shall--be proven--leak--proof.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.105 Approval of Plans (Repealed)

Blueprints--or--drawings--made--to--scale--shall--be--submitted--in--triplicate--to--the Office--of--the--State--Fire--Marshal--and--shall--be--approved--before--any--new construction--addition--or--remodeling--which--alters--building--size--dispenser locations--or--locations--or--sizes--of--vehicle--service--area--heating--devices--or storage--tanks--Drawings--shall--carry--the--name--of--the--person--firm--or--company proposing--the--installation--the--location--with--reference--to--city--village--or town--and--shall--show--the--following:

- a) The--plot--to--be--utilized--and--its--immediate--surroundings--on--all--sides

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all--property--lines--are--to--be--designated--and--adjacent--streets--and highways--must--be--named.

b) The--complete--installation--as--proposed--including--tanks--and--other capacities--class--of--liquids--to--be--stored--pumps--buildings--drawers and--all--equipment.

c) Clearance--from--tanks--to--property--lines--as--required--by--Section 170-106(f).

d) Type--of--construction--of--service--station--building--or--buildings--clearly showing--that--there--will--be--no--new--basement--cellar--excavation--under any--portion.

e) Location--of--basement--cellars--of--property--of--other--buildings--on--the property--or--on--adjacent--property--and--location--of--sewers--with--reference thereto--as--required--by--Section--170-106(f)--is--a--existing--condition--basement--cellar--or--pit--crease--make--no--to--not--affect.

f) Location--of--sewers--manholes--catch--basins--sewers--sewer--caves wells--or--cisterns--(whether--on--the--property--or--adjacent--property--or--on adjoining--streets--highways--or--alleys)--is--a--existing--condition--reference--thereto--as--required--by--Section--170-106(f)--is--a--existing--condition--sewer--manhole--or--catch--basin--in--a--street--or--alley--or--no--sewer cesspool--septic--tank--well--or--cistern--on--a--property--a--notation--to that--effect--should--be--made--in--the--proper--place.

g) Location--of--vent--pipe--outlets--as--required--by--Section--170-106(d)--and location--of--fill--pipes--as--required--by--Section--170-107.

h) Ventilation--or--venting--pipes--as--required--by--Section--170-107--if greasing--pit--is--located--within--a--building--or--an--enclosure.

i) A--complete--showing--of--type--of--heat--and--heating--arrangements--as required--by--Section--170-115.

j) Drawings--shall--be--accompanied--by--an--application--for--approval--made--out in--triplicate--on--plans--furnished--by--the--Office--of--the--State--Fire Marshal.

k) Plans--will--be--approved--if--they--meet--the--requirements--contained--in--this Part.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.106 Installer, Repairer or Remover of Underground Storage Tanks (Repealed)

Any--person--who--is--an--installer--repairer--or--remover--of--underground--storage tanks--is--to--register--with--and

- a) Pay--an--annual--registration--fee--of--\$100--to--the--Office--of--the--State--Fire Marshal--on--or--before--30--days--from--the--date--on--the--invoice--requesting payment--of--the--fee--the--payment--is--to--be--by--check--or--money--order--made payable--to--the--Office--of--the--State--Fire--Marshal.

- b) Pay--\$100--per--year--to--the--Office--of--the--State--Fire--Marshal--for--a--permit to--install--repair--remove--or--abandon--in--place--underground--storage tanks.

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- 1) A separate fee is required for each type of activity;
- 2) This fee is to be paid by check or money order made payable to "Office of the State Fire Marshal";
- 3) This fee is waived regarding all persons who repair an underground storage tank for themselves;
- 4) This permit expires six months from the date it is issued except that the applicant may apply for and be entitled to one six-month extension of the permit during the time the permit is valid with no additional fee required;
- 5) For purposes of this Section the term "installer" includes "replacer" and "installer" includes "replace" and the term "repairer" includes person who upgrades and "repair" includes "upgrade" except for purposes of this Section "upgrades" and "upgrades" do not include the placement of monitoring wells;

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.107 Tester of Underground Storage Tanks and Cathodic Protection (Repealed)

Any person who is a tester of underground storage tanks or its piping or cathodic protection for another except a tester for his or her lessee is to register with and pay an annual registration fee of \$100 to the office of the State Fire Marshal on or before 30 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to the office of the State Fire Marshal. The results of such tests are to be reported to the office of the State Fire Marshal within one month from the date of each such test on a form prescribed by the office of the State Fire Marshal except when a tank fails a test and is suspected of leaking the result shall be submitted within three working days of the test.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.108 Pressure Testing (Repealed)

After installation, pressure testing with air or other gaseous or underground storage tanks or piping containing or which have contained flammable or combustible liquids is prohibited.

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.110 Building

- 1) The floor level shall be above grade so as to prevent flow of liquids or vapors into building and the floor shall be of concrete, or other

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- 1) Fire-resistant construction;
- 2) No basement or excavation shall be constructed under any service station building. Existing basements under service stations shall be eliminated or provided with mechanical ventilation and only non-sparking explosion-proof motors and compressors shall be permitted in existing basements;
- 3) No furnaces or heaters shall be located in existing service station basements.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

SUBPART B: UNDERGROUND STORAGE TANKS--TECHNICAL REQUIREMENTS

Section 170.400 Definitions

- 1) "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.
- 2) "Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurement of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. This person must have education and experience in the measurement of cathodic protection of buried metal piping and tank systems and be registered as an UST tester with the office of the State Fire Marshal.
- 3) "Compatible" means the ability of two or more substances to maintain their respective physical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.
- 4) "Consumptive" use on the premises for purposes of determining whether a tank containing heating oil is an UST does not include using heating oil to heat from a boiler or furnace through a heat exchanger to heat any product or substance used in a manufacturing or production process.
- 5) "Corrosion expert" is a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. This person must be accredited as being qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer with the State who has certification of testing that includes rusting and exposure to corrosion control of buried or submerged metal piping systems and

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- xx "Petroleum" (including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60°-P and 14.7 pounds per square inch absolute)) includes but is not limited to petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading or finishing, such as motor fuels, jet fuels, distillate, fuel oil, residual fuel oil, lubricants, and petroleum solvents.
- yy "Petroleum" means an underground storage tank system that contains petroleum or a mixture of petroleum feed product greater of the total volume of the contents of the system with other regulated substances as defined in this Section.
- zz "Upstream piping" is any hollow cylinder or tubular conduit that is constructed of non-ferrous materials.
- aaa "Upstream facilities" (including heating lines) include new or existing pipe, valves, and any equipment, facilities or buildings used in the transportation of gas for hazardous liquids which include petroleum or any other liquid designated by the United States Secretary of Transportation or the treatment of gas or designated hazardous liquids during the course of transportation.
- bbb "Regulated substance" means petroleum or hazardous substance as defined in this Section.
- ccc "Repair" means to replace a tank or USG system component that has caused a release or product flow from the USG system.
- ddd "Retention tank" is an USG used primarily for detaining purposes; it does not include a unit unit detaining such as a detention building or condenser or separator or demulser.
- eee "Storm water" is water which collection system is all piping, pumps, conduit, and any other equipment necessary to collect and transport the flow of surface water runoff resulting from precipitation or domestic connections or other substances to and from detention area or area where treatment is designed to occur; the collection of storm water not wastewater does not include treatment except where included to conveyance.
- fff "Surface impoundment" is a natural topographic depression, man-made excavation or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.
- ggg "Tank" is a stationary device designed to contain accumulation of regulated substances and connected to non regulated materials (except a steel plate tank) provide structural support.
- hhh "A tank" is a pressure vessel beneath the surface of an underground storage tank volume including the volume of a connected underground piping to 10 percent or more beneath the ground surface or otherwise covered with earthen materials.
- iii "Underground piping" means all underground piping including valves, flanges, joints, stages and flexible connectors attached to a tank system through which regulated substances flow.

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- For the purpose of determining how much piping is connected to any individual USG system, the piping that joins two USG systems should be allocated equally between the systems. Where tanks are manifolded together, each tank is considered as a separate USG system. However, if an exempt tank is connected by piping to a regulated tank, half of the piping is allocated to each tank system.
- Underground storage tanks or USGs.
- ii "Underground storage tank or USG" means any one or combination of tanks (including underground pipes and cathodic protection connected thereto) that is used to contain an accumulation of regulated substances and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. A tank containing less than four percent petroleum of the total volume of its contents and no hazardous substance is not an underground storage tank or USG. A tank system consisting of an USG may not be classified as being a non-USG unless there has been a change in service as provided in Section 17-630. A non-USG system tank which is used to store a non-regulated substance may not be converted to an USG system tank unless the tank has been certified by the manufacturer. An USG system does include an emergency power generator tank that stores any classification of fuel for the exclusive operation of a component by an emergency power generator except as otherwise excluded in subsections (f)(1) and (f)(2). The term underground storage tank or USG shall not include any pipes connected to any tank which is located in a subsection (f)(1) through (f)(2). Underground storage tank or USG does not include any:
- A) Rain or residual tank of 1100 gallons or less capacity used for storing motor fuel for noncommercial purposes.
- B) Tank of 1100 gallons or less capacity used exclusively for storing heating oil for consumption use on the premises where stored.
- C) Septic tank.
- D) Pipeline facility (including gathering lines).
- ii) Regulated under the National Gas Pipeline Safety Act of 1968 (49 USC 1601 et seq.).
- iii) Regulated under the Hazardous Liquid Pipeline Safety Act of 1975 (49 USC 1601 et seq.).
- iiii) Regulated under the International Brotherhood of Teamsters (fifti) Rev. Stat. 1907 ch. 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

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- the floor and can be viewed from all sides.
- 1) Storage tank situated in an underground area (such as a basement, cellar, mine, working drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor and can be viewed from all sides.
- 2) Tank abandoned by filling with inert material in compliance with regulations issued by the Office of the State Fire Marshal.
- 3) Tank with a capacity less than 110 gallons, or
- 4) Hydraulic lift tank.
- 5) The following are deferred from being considered UST systems (whether single or double wall construction):
- A) Wastewater treatment tank system.
- B) Any UST system containing radioactive material that is regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011).
- C) Any UST system that is part of an emergency generation system at a nuclear power generation facility regulated by the United States Nuclear Regulatory Commission.
- D) Airport hydrant fuel distribution system and
- E) Any UST system with a field constructed tank.
- 3) Although the systems specified in subsection (2) are exempt from the requirements in Sections 170-420 through 170-670, they are required to comply with the following:
- A) Be constructed to prevent releases due to corrosion or structural failure for the operational life of the UST system.
- B) Be cathodically protected against corrosion, constructed of non-corrosive material, steel clad with a non-corrosible material, or designed in a manner to prevent the release or threatened release of any stored substance.
- C) Be constructed or lined with material that is compatible with the stored substance, and
- D) An owner of an UST system with field constructed tanks shall install monitoring wells in accordance with written directives issued by the Office of the State Fire Marshal.
- 4) "Upgrade" is the addition or retrofit of some portion of an UST system, such as cathodic protection, lining or spill and overflow controls, to improve the ability of the UST to prevent the release of product.

"Abandonment-in-place" is the permanent placement of a UST in an inoperative condition by filling it with inert material in accordance with Section 170.670.

"Bulk storage" means the containment in a UST or aboveground storage tank of a regulated substance for direct transference for purposes of distribution into a tank vessel, pipeline, tank car, tank vehicle,

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portable tank or container--except that the minimum size of the "container" is required to be greater than the maximum allowed for "dispensing."

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurement of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. This person shall have education and experience in soil resistivity, stray current, structure-to-soil potential and component electrical isolation measurements of buried metal piping and tank systems.

"Compatible" means the ability of two or more substances to maintain their respective physical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

"Contractor" is a licensed person, excluding employees of the contractor, who performs any UST activity.

"Corrosion expert" is a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. This person shall be accredited as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered Professional Engineer with the State, who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Dielectric material" is one that does not conduct direct electric current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soil. Dielectric bushings are used to electrically isolate portions of the UST system (i.e., tank from piping).

"Dispensing" means the transference of a regulated substance from a UST or aboveground storage tank (AST) directly into the fuel tank of a motor vehicle operated by an internal combustion engine, for use by that motor vehicle. Also, "dispensing" is the transference of a regulated substance from a UST or AST directly into a portable container, as prescribed in 41 Ill. Adm. Code 170.150.

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"European suction" is a piping system that draws a liquid through the system by suction pump or vacuum pump located at the dispenser. This system shall have the piping sloped back to the tank and may have no more than one check valve, and it shall be located directly under the suction pump. This type of piping system never requires line leak detection.

"Excavation zone" is the volume containing the tank system and backfill material bounded by the ground surface, walls and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Existing tank system" means a tank system used to contain an accumulation of regulated substance or for which installation has commenced before April 21, 1989. Installation is considered to have commenced if the owner or operator has obtained all Federal, State and local approvals or permits necessary to begin physical construction of the site or installation of the tank system if:

A. continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations--which cannot be canceled or modified without substantial loss--for physical construction at the site or installation of the tank system, to be completed within a reasonable time.

"Farm" is a tract of land devoted to the production of crops or raising of animals, including fish. "Farm" includes all contiguous land and structures and other appurtenances and improvements; also, fish hatcheries, rangeland and nurseries with growing operations. "Farm" does not include agribusiness (as defined in 20 ILCS 3605/2(i)), laboratories where animals are raised, land used to grow timber and pesticide aviation operations. Moreover, this definition does not include retail stores or garden centers where the produce of nursery farms is marketed, but not produced.

"Farm tank" means a motor fuel UST located on a farm and used exclusively for farm purposes.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction to the process or for the storage of finished products or by-products from the production process. When the process is shut down, flow-through

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process tanks do not store product to be used once the process is resumed and may contain no more than a de minimis amount of product.

"Gathering lines" are any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Hazardous substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (42 U.S.C. Section 9601); but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. Section 6901 et seq.).

"Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance or any mixture of such substances and petroleum and which is not a petroleum UST system.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C) and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

"Heating oil tank for consumptive use on the premises where stored" means heating oil consumed exclusively on the premises where the heating oil UST is located, for space-heating or water-heating purposes. It does not include using heating oil to heat from a boiler or furnace through direct conductivity any product or substance used in a manufacturing or production process or using heating oil as an ingredient in a manufacturing or production process. Heating oil used to heat grain dryers or kilns is used for consumptive use on the premises.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators or other similar devices.

"Interior liner" is a person who applies interior or internal lining.

"Interior or internal lining" means corrosion and chemical resistant materials that are sprayed, brushed or applied to the inside of a tank to protect the tank and its product from contamination by corrosion. Interior lining is applied by an interior liner.

"Kerosene" is a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water,

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inorganic, acidic or basic compounds, and excessive amounts of particulate contaminants. Two classifications are recognized by ASTM D 3699-92, incorporated by reference in Section 170.410, as follows:

No. 1-K-A special low-sulfur grade kerosene suitable for use in nonflue-connected kerosene burner appliances and for use in wick-fed illuminating lamps; and

No. 2-K-A regular grade kerosene suitable for use in flue-connected burner appliances and for use in wick-fed illuminating lamps.

"Liquid traps or associated gathering lines directly related to oil or gas production or gathering operations" refer to sumps, well cellars or other traps used in association with oil or gas production, gathering or extraction operations (including gas production plants), for the purpose of collecting oil, water or other liquids. Such liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasoline and is typically used in the operation of a motor engine.

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation commenced on or after April 21, 1989. A new tank system may include a tank which has been installed, contained regulated substances, removed and re-certified.

"Noncommercial purposes" with respect to motor fuel means not for resale and shall be exclusively for farm or residential use.

"On the premises where stored" means tanks located on the same or contiguous property where the stored heating oil is used. "On the premises" is not limited to the building where the heating oil is stored. Thus, centralized heating units using heating oil that serve more than one building on the same property are included.

"Operation" or "use" in reference to underground storage tanks means that the tank must have had input or output of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes, during the regular course of its usage. "Operation" does not include (i) compliance with leak detection requirements as prescribed by rules and regulations of the Office of the State Fire Marshal or (ii) the mere containment or storage of petroleum products, or

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hazardous substances, with the exception of hazardous wastes. [430 ILCS 15/4]

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

In the case of a UST system in use on November 8, 1984, or brought into use after that date, any person who owns a UST system used for storage, use or dispensing of regulated substances; and

In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

"person" means an individual, trust, firm, partnership, joint stock company, corporation, Federal agency, state, municipality, commission, unit of local government or political subdivision of a state or any interstate body. "person" also includes consortium, joint venture, commercial entity or the United States Government.

"Petroleum" (including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60° F and 14.7 pounds per square inch absolute)), includes, but is not limited to, petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading or finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of hazardous substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents or used oils.

"Pipe or piping" is any hollow cylinder or tubular conduit that is constructed of non-earthen materials.

"Pipeline facilities (including gathering lines)" include new or existing pipe rights-of-way and any equipment, facilities or buildings used in the transportation of gas (or hazardous liquids, which include

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petroleum or any other liquid designated by the United States Secretary of Transportation) or the treatment of gas or designated hazardous liquids during the course of transportation.

"Re-certification" (of a UST) means when the UST is to be re-certified a certified member of the Steel Tank Institute or Fiberglass Petroleum Tank and Pipe Institute (whichever is appropriate) or the manufacturer has inspected the UST and issued its approval as to the adequacy of integrity of the UST to contain regulated product in accordance with applicable laws and regulations. A re-certified UST that is re-installed is classified as a "new tank system." The Fiberglass Petroleum Tank and Pipe Institute address is: 9801 Westheimer, Suite 606, Houston, TX 77042-3951, (713) 465-3310; the address for the Steel Tank Institute is located in Section 170.410.

"Regulated substance" means petroleum or hazardous substance as defined in this Section.

"Release" means any spilling, overfilling, leaking, emitting, discharging, escaping, leaching or disposing from a UST into groundwater, surface water or subsurface soils.

"Reliner" means "interior liner."

"Repair" means to restore a UST system component that has caused or may cause a release of product from the UST system.

"Residence" means single-family dwelling unit or duplex and parcel of property each is located on, with only one unit or duplex per parcel.

"Residential tank" is a motor fuel UST located on residential property used for noncommercial purposes by a single family and located on property on which that family's residence is located. For purposes of this definition, "residence" shall include a single-family dwelling or duplex.

"Service stations" are defined as:

"Automotive service station." That portion of property where regulated substances used as motor fuels are stored and dispensed for retail sale (see Section 2 of the Use Tax Act for a definition of "retail sale" [35 ILCS 105/2]) from fixed equipment into the fuel tanks of motor vehicles operated by internal combustion engines, for use by those motor vehicles.

"Marine service station" or "Marina." That portion of property where regulated substances used as motor fuels are stored and dispensed from fixed equipment on shore, piers, wharves or

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floating docks into the fuel tanks of self-propelled craft operated by internal combustion engines, for use by those self-propelled craft.

"Service station," whether automotive or marine, includes attended service station, attended self-service station and unattended self-service station.

"Spill release" is a release that usually occurs at the fill pipe opening of a tank when a delivery truck's hose is disconnected from the fill pipe, while product continues to exit the hose, resulting in a discharge of the regulated substance to the environment.

"Storm-water" or "wastewater" collection system is all piping, pumps, conduit and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation or domestic, commercial or industrial wastewater to and from retention areas or areas where treatment is designated to occur. The collection of storm-water or wastewater does not include treatment, except where incidental to conveyance.

"Surface impoundment" is a natural topographic depression, man-made excavation or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., steel, fiberglass, concrete or plastic) that provides structural support.

"Ten percent or more beneath the surface of the ground" with reference to a tank, means that its volume (including the volume of its connected underground piping) is 10 percent or more beneath the ground surface or otherwise covered with earthen materials. If a tank is in a vault, it is considered "beneath the surface of the ground," if it cannot be viewed from all sides and top and base.

"Underground pipes connected thereto" means all underground piping, including valves, elbows, joints, flanges and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between the systems. Where tanks are manifolded together with product piping, each tank is considered a separate UST system. Exempt tanks shall not be connected by piping to regulated tanks.

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"Underground storage tank system" or "UST" means any one or combination of tanks (including underground pipes, ancillary equipment and cathodic protection connected thereto) used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. A tank system classified as a UST may not be re-classified as being a non-UST unless there has been a change-in-service as provided in Section 170.630. A non-UST system tank used to store a non-regulated substance may not be converted to a UST system tank unless the tank has been re-certified and is in compliance with all applicable upgrade requirements. A UST system does include an emergency power generator tank that stores any classification of fuel for use exclusively, alternately or concurrently by an emergency power generator, except as otherwise excluded in this definition. The term "underground storage tank system" or "UST" does not include any pipes connected to any tank excluded from this definition. Underground storage tank system or UST does not include any tank system as follows:

Farm or residential tank with a capacity of 1,100 gallons or less used for storing motor fuel for noncommercial purposes;

Heating oil tank of any capacity used exclusively for storing heating oil for consumptive use on a farm or residence;

Septic tank;

Pipeline facility (including gathering lines);

Regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671, et seq.);

Regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.); or

Regulated under the Illinois Gas Pipeline Safety Act [220 ILCS 20];

Any wastewater treatment tank system (including oil-water separators) that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;

Surface impoundment, pit, pond or lagoon;

Storm-water or wastewater collection system;

Flow-through process tank;

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Emergency spill protection tank or overflow tank that is emptied expeditiously following use;

Liquid trap or associated gathering line directly related to oil or gas production and gathering operations;

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor and can be viewed from all sides and top and base;

Storage tank situated in a vault (whether underground or aboveground), if the storage tank is situated upon or above the surface of the floor or ground and can be viewed from all sides and top and base;

Tank abandoned-in-place by filling with inert material in compliance with Section 170.670 issued by the Office of the State Fire Marshal;

Tank with a capacity of 110 gallons or less;

Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.);

Tank that contains a de minimis concentration of regulated substances, except that such tank shall have been in such status as of April 21, 1989 and may not have been converted to a UST system tank on or after that date, unless the tank has been re-certified and is in compliance with applicable upgrade requirements; or

Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks or electrical equipment tanks.

The following UST systems are deferred from the requirements of Sections 170.420 through 170.580 and 170.620 through 170.672 (whether single- or double-wall construction):

Wastewater treatment tank system (including oil-water separators, except that oil-water separators which are components of an oil processing, refining or treatment system are not wastewater treatment tanks);

Any UST system containing radioactive material that is regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011);

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Any UST system that is part of an emergency generation system at a nuclear power generation facility regulated by the United States Nuclear Regulatory Commission;

Airport hydrant fuel distribution system; and

Any field-constructed tank.

Although the systems deferred immediately above are exempt from the requirements in Sections 170.420 through 170.580 and 170.620 through 170.672, they are required to comply with Sections 170.590 through 170.610 and, by December 22, 1998, are required to comply with the following:

Be constructed to prevent releases due to corrosion or structural failure for the operational life of the UST system;

Be cathodically protected against corrosion, constructed of non-corrodible material, steel clad with a non-corrodible material, or designed in a manner to prevent the release or threatened release of any stored substance;

Be constructed or lined with material that is compatible with the stored substance; and

An owner of a UST system with a field-constructed tank shall install a method for leak detection in accordance with written directives issued by the Office of the State Fire Marshal.

"UST activity" means a UST:

Installation--including retrofitting and cathodic protection installation;

Repair--including upgrade, which includes retrofitting and cathodic protection installation;

Removal--decommissioning, which includes abandonment-in-place;

Relining;

Tank tightness testing; or

Cathodic protection testing.

"Upgrade" is the addition or retrofit of some portion of a UST system, such as cathodic protection, leak detection, new dispenser islands, new piping, interior lining (relining) or spill and overfill controls,

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to improve the ability of the UST to prevent the release of product.

"Wastewater treatment tank" means a tank that is designed to receive and treat any influent wastewater through physical, chemical or biological methods.

(Source: Amended at 19 Ill. Reg. 54071, effective APR 01 1995)

Section 170.410 Incorporations by Reference

a) The following publications are incorporated by reference in this Subpart:

Association for Composite Tanks (ACT)--Available from the Association for Composite Tanks, 100 N. State, Suite 720, Chicago, IL 60602 (800)360-2105;

ACT-100/88--"Specification for the Tanks"--Fabrication of FRP Class/Composite Underground Storage Tanks, revised March 1989;

American National Standards Institute (ANSI)--Available from the American National Standards Institute, 1430 Broadway, New York, NY 10010 (212)354-3300;

ANSI--B31.3--1987, with addenda B31.3A--1989 and B31.3B--1989, Chemical Plant and Petroleum Refinery Piping (1989);

ANSI--B31.4--1986, with addendum B31.4a--1987, "Liquid Transportation Systems for Hydrocarbons--Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols" (1987);

ANSI--B31.7.1--"Confined Spaces Safety" (1977);

American Petroleum Institute (API)--Available from the American Petroleum Institute, 1220 B Street, N.W., Washington, D.C. 20005 (202)682-8000;

API--Recommended Practice 1604--"Removal and Disposal of Used Underground Petroleum Storage Tanks"--Second Edition, December 1987;

API--Recommended Practice 1615--"Installation of Underground Petroleum Storage Systems", Fourth Edition, November 1987;

API--Recommended Practice 1621--"Bulk Liquid Stock Control at Retail Outlets", Fourth Edition, December 1987;

API--Recommended Practice 1626--"Storage and Handling of Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations", First Edition, April 1985;

API--Recommended Practice 1637--"Storage and Handling of Gasoline-Methanol/Consolvent Blends at Distribution Terminals and Service Stations", First Edition, August 1986;

API--Recommended Practice 1631--"Interfering of Underground Service Tanks", Second Edition, December 1987;

API--Recommended Practice 1632--"Cathodic Protection of

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Underground--Petroleum--Storage-Tanks-and-Piping-Systems", Second Edition--December-1987.
 API-Publication-2015--Cleaning-Petroleum-Storage-Tanks", Third Edition--September-1985.
 API-Publication-2015A--A-Guide-for-Controlling-the-Head-Hazard Associated-with-Tank-Entry-and-Cleaning", Second-Edition--June-1982.
 API-Publication-2200--Repairing-Crude-Oil-Biquified-Petroleum Gas-and-Product-Pipelines", Second-Edition--April-1983.
 American-Society-for-Testing-and-Materials-(ASTM)--Available-from-the American-Society-for-Testing-and-Materials--1916--Race--St-7 Philadelphia-A-1910-199-5400.
 ASTM-B402-86--Standard-Specification-for-Glass-Fiber-Reinforced Polyester-Underground-Petroleum-Storage-Tanks", approved-July-1986.
 National-Association-of-Corrosion-Engineers-(NACE)--Available-from the-National-Association-of-Corrosion-Engineers-1400-S-Creek-Dr-7 Houston-TX-77084-(713)492-0535.
 NAB-Standard-Recommended-Practice-RP016-83--Control-of-External Corrosion-on-Underground-or-Submerged-Metallic-Piping-Systems", revised-January-1983.
 NAB-Standard-Recommended-Practice-RP085-85--Control-of-External-Corrosion-on-Metallic-Buried-Partially-Buried-or Submerged-Liquid-Storage-Systems", approved-March-1985.
 National-Fire-Protection-Association-(NFPA)--Available-from-the National-Fire-Protection-Association-Batterymarch-Party-Boston-MA 02269-(617)770-3000-or-(608)344-3555.
 NFPA-307--"Flammable-and-Combustible-Liquids-Codes", issued-July 17-1987--Also available from-ANSI.
 NFPA-327--"Standard-Procedures-for-Cleaning-or-Safeguarding-Small Tanks-and-Containers", issued-December-10-1986--Also available from-ANSI.
 NFPA-305--"Tank-Vehicles-for-Flammable-and-Combustible-Liquids", issued-December-7-1984--Also available from-ANSI.
 National-Leak-Prevention-Association-(NLPA)--Available-from-the National-Leak-Prevention-Association-409-Rose-Hill-Ave--Cincinnati OH-45229-(606)543-1030.
 NFPA-Standard-631--"Spill-Prevention--Minimum-10-Year-Life Extension-of-Existing-Steel-Underground-Storage-Tanks-by-Lining Without-the-Addition-of-Cathodic-Protection".
 Petroleum-Equipment-Institute-(PEI)--Available-from-the-Petroleum Equipment-Institute-Box-2300-Tulsa-OK-74101-(918)743-9941.
 PEI-R100-87--"Recommended--Practices--for--Installation-of Underground-Liquid-Storage-Systems", 1987-Edition.
 Steel-Tank-Institute-(STI)--Available-from-the-Steel-Tank-Institute 720-Anthony-Trail-Northbrook-IL-60062-(312)490-1980.
 STI-83--"Specification--and--Manual--for--External-Corrosion Protection-of-Underground-Steel-Storage-Tanks", effective-May-17

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1987.
 STI--"Standard-for-Buried-Underground-Steel-Storage-Tanks" (1986).
 Underwriters-Laboratories-Inc.--(UL)--Available-from-Underwriters Laboratories-Inc.-Publications-Stock-333-Pfingsten-Rd--Northbrook-IL-60062-2996-(312)232-0800--extension-2612-or-2622.
 UL-98--1985--"Standard-for-Steel-Underground-Tanks-for-Flammable-and-Combustible-Liquids", Eighth-Edition--April-15-1986--Also available from-ANSI.
 UL-567--1983--"Standard-for-Pipe-Connectors-for-Flammable-and-Combustible-Liquids-and-SP-Gas", Fifth-Edition--March-12-1984.
 UL-1316--"Standard-for-Glass-Fiber-Reinforced-Plastic-Underground Storage-Tanks-for-Petroleum-Products", First-Edition--July-17-1983-as-revised-April-29-1986-and-March-3-1987.
 Underwriters-Laboratories-of-Canada-(UB-Canada)--Available-from Underwriters-Laboratories-of-Canada-7-Crouse-Rd--Scarborough Ontario-M1R-3A9-CANADA-(416)751-3611.
 UB-Canada-Standard-CAN-5603-M85--"Standard-for-Steel-Underground Tanks-for-Flammable-and-Combustible-Liquids", First-Edition June-1985.
 UB-Canada-Standard-CAN-5603-M87--"Standard-for-Solvent Corrosion-Protection-Systems-for-Steel-Underground-Tanks-for-Flammable-and-Combustible-Liquids", First-Edition-June-1985.
 UB-Canada-Standard-CAN-5615-M83--"Standard-for-Reinforced Plastic-Underground-Tanks-for-Petroleum-Products", First-Edition-February-1983.
 UB-Canada-Standard-CAN-5631-M84--"Standard-for-Isolating Bushings-for-Steel-Underground-Tanks-Protected-with-Coatings-and Salivane-Systems", First-Edition-May-1984.
 UB-Canada-Standard-CAN-5633-M84--"Flexible-Underground-Hose Connectors-for-Flammable-and-Combustible-Liquids", First-Edition June-1984.
 UB-Canada-Subject-0270-M1984--"Guide-for-Glass-Fibre-Reinforced Plastic-Pipe-and-Fittings-for-Flammable-Liquids", First-Edition June-1984.
 Code-of-Federal-Regulations-(CFR)--Available-from-the-Superintendent of-Documents-US-Government-Printing-Office-Washington-D.C.-20540-(202)-703-3230.
 40-CFR-2007-Subpart-B7-as-adopted-at-53-Reg.-371447 September-23-1987.
 40-CFR-2007-Subpart-B7-as-adopted-at-53-Reg.-371447 September-23-1987.
 40-CFR-2007-Subpart-B7-as-adopted-at-53-Reg.-371447 September-23-1987.
 40-CFR-302-47-302-5-and-302-6-(1987).
 This-Section-incorporates-no-later-editions-or-amendments.

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- a) The following publications are incorporated by reference in this Subpart:
- American National Standards Institute (ANSI). Available from the American National Standards Institute, 11 W.42nd Street, New York, NY 10036 (212)642-4900:
 - ANSI/ASME B31.3--1992, with addenda ANSI/ASME B31.3a--1993, ANSI/ASME B31.3b--1994, "Chemical Plant and Petroleum Refinery Piping."
 - ANSI/ASME B31.4--1992, with addendum ANSI/ASME B31.4a--1994, "Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols."
 - ANSI Z117.1--1989, "Safety Requirements for Confined Spaces."
 - American Petroleum Institute (API). Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005 (202)682-8375:
 - API Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks," Second Edition, December 1987, Supplement 1989.
 - API Recommended Practice 1615, "Installation of Underground Petroleum Storage Systems," Fourth Edition, November 1987, Supplement 1989.
 - API Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets," Fifth Edition, May 1993.
 - API Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations," First Edition, April 1985, Reaffirmed 1993.
 - API Recommended Practice 1627, "Storage and Handling of Gasoline-Methanol/Consolvent Blends at Distribution Terminals and Service Stations," First Edition, August 1986, Reaffirmed 1993.
 - API Recommended Practice 1631, "Interior Lining of Underground Storage Tanks," Third Edition, April 1992.
 - API Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," Second Edition, December 1987, Supplement 1989.
 - API Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks," Fifth Edition, May 1994.
 - API Publication 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines," Third Edition, December 1993.
 - American Society for Testing and Materials (ASTM). Available from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103 (215)299-5400:
 - ASTM D 3699-92, "Standard Specification for Kerosene," approved October 15, 1992.
 - ASTM D 4021-92, "Standard Specification for Glass Fiber-Reinforced Polyester Underground Petroleum Storage Tanks," approved July 25, 1986.
 - The BOCA National Codes. Available from Building Officials & Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country

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- Club Hills, IL 60477-5795 (708)799-2300:
- Section 707, "Fire Walls and Party Walls," BOCA National Building Code, Twelfth Edition, 1993.
 - NACE International (NACE). Available from NACE International, 1440 S. Creek Dr., Houston, TX 77084 (713)492-0535:
 - NACE Standard Recommended Practice RP0169-92, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems," revised June 1992.
 - NACE Standard Recommended Practice RP0285-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," approved March 1985.
 - National Fire Protection Association (NFPA). Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 (617)770-3000 or (800)344-3555:
 - NFPA 30, "Flammable and Combustible Liquids Code," issued 1993. Also available from ANSI.
 - NFPA30A, "Automotive and Marine Service Station Code," issued 1993. Also available from ANSI.
 - NFPA 70, "National Electrical Code," issued 1993. Also available from ANSI.
 - NFPA 101, "Life Safety Code," issued 1991. Also available from ANSI.
 - NFPA 327, "Standard Procedures for Cleaning or Safeguarding Small Tanks and Containers," issued 1993. Also available from ANSI.
 - NFPA 385, "Tank Vehicles for Flammable and Combustible Liquids," issued 1990. Also available from ANSI.
 - National Leak Prevention Association (NLPA). Available from the National Leak Prevention Association, P.O. Box 1643, Boise, ID 83701-1643 (208) 389-2074:
 - NLPA Standard 631 (ANSI/NLPA 631 Chapters A & B Only), "Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks," Third Edition, 1991.
 - Petroleum Equipment Institute (PEI). Available from the Petroleum Equipment Institute, Box 2380, Tulsa, OK 74101 (918)494-9696:
 - PEI/RP100-94, "Recommended Practices for Installation of Underground Liquid Storage Systems," 1994 Edition.
 - Steel Tank Institute (STI). Available from the Steel Tank Institute, 570 Oakwood Road, Lake Zurich, IL 60047 (708)438-8265:
 - STI, "Standard for Dual Wall Underground Steel Storage Tanks," effective February 15, 1991.
 - STI (ACT 100), "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks," revised March 6, 1991.
 - STI-P3, "Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks," revised 1994.
 - Underwriters Laboratories, Inc. (UL). Available from Underwriters Laboratories, Inc., Publications Stock, 333 Pilingsten Rd., Northbrook, IL 60062-2096 (708)272-8800:

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UL 58--1986, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," Eighth Edition, April 15, 1986. Also available from ANSI.

UL 567--1992, "Standard for Pipe Connectors for Flammable and Combustible Liquids and LP-Gas," Seventh Edition, March 12, 1984, as revised August 3, 1990. Also available from ANSI.

UL 842--1993, "Valves for Flammable Liquids," Seventh Edition, June 3, 1993. Also available from ANSI.

UL 1316, "Standard for Glass Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products," Second Edition, 1994. Also available from ANSI.

UL 1746--1993, "External Corrosion Protection Systems for Steel Underground Storage Tanks," Second Edition, July 27, 1993. Also available from ANSI.

Underwriters Laboratories of Canada (UL Canada). Available from Underwriters Laboratories of Canada, 7 Crouse Rd., Scarborough, Ontario M1R 3A9 CANADA (416)757-3611:

UL Canada Standard CAN/ULC-S603.1-92, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," Second Edition, August 1992.

UL Canada Standard CAN/ULC-S603-92, "Standard for Galvanic Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids," Second Edition, September 1992.

UL Canada Standard CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products," First Edition, February 1983.

"UL Canada Standard CAN4-S631-M84, "Standard for Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems," First Edition, May 1984.

UL Canada Standard CAN/ULC-S633-M90, "Flexible Underground Hose Connectors for Flammable and Combustible Liquids," Second Edition, June 1990.

UL Canada Subject ULC/ORD-C107.7-1993. "Glass-Fibre Reinforced Plastic Pipe and Fittings for Flammable and Combustible Liquids," First Edition, February 1993.

b) Code of Federal Regulations (CFR). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401 (202)512-1800:

40 CFR 302.5 and 302.6 (1993).

c) This Section incorporates no later editions or amendments.

d) Where the above-referenced publications conflict with Part 170, the State regulations shall take precedence.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.411 USTs Out of Operation One Year

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USTs not in operation, as defined in Section 170.400, for a period of one year, do not have to be in compliance with Sections 170.420 through 170.430 or 170.450 through 170.540 and shall not comply with 170.620 or 170.630 (except as applicable), but shall otherwise comply with this Subpart as required.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.412 Delegation of Authority to Enforce UST Rules and Regulations

Pursuant to 430 ICS 15/2, the Office of the State Fire Marshal has authority to delegate to the City of Chicago enforcement of its underground storage tank rules and regulations.

a) The methods and procedures of this enforcement do not have to be identical with those of the Office; however, the Office has oversight concerning such enforcement.

b) Subject to the terms of such a delegation agreement, where the Office of the State Fire Marshal is expressly authorized to initiate enforcement action, the City of Chicago has concurrent authority.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.420 Design, Construction, Installation and Notification of New UST Systems

a) Tanks---Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

- 1) The tank is constructed of fiberglass-reinforced plastic---The following industry code---incorporated by reference in Section 170.410---may be used to comply with this subsection---UL-13167-BB Canada Standard CAN4-S615, or ASIM-B4021-7, or
- 2) The tank is constructed of steel and cathodically protected in the following manner:

A) The tank is coated with a suitable dielectric material;

B) Field installed cathodic protection systems are designed by a corrosion expert;

C) Impressed current systems are designed to allow determination of current operating status as required in Section 170.460(c)7 and

B) Cathodic protection systems are operated and maintained in accordance with Section 170.460---The following codes and standards incorporated by reference in Section 170.410 may be used to comply with this subsection:---SP1-P3,---UB-Canada Standard---CAN4-S603.1 and CAN4-S603.1 and CAN4-S603.1-NACE-RP0985

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a) Tanks. Each tank shall be properly designed, constructed and installed, and any portion underground that routinely contains product shall be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as specified below:

1) The tank is constructed of fiberglass-reinforced plastic. (The following industry codes, incorporated by reference in Section 170.410, may be used to comply with this subsection (1): UL 1316; UL Canada Standard CAN4-S615; or ASTM D 4021-92.) To prevent penetration of the tank bottom, all non-metallic tanks shall be equipped with steel striker plates on the tank bottom immediately below any opening which might be used for taking dipstick measurements.

2) The tank is constructed of steel and cathodically protected (The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (2): STI-P3; UL Canada Standard CAN4-S603, CAN4-S603.1 and CAN4-S631; NACE RP0285; or UL 58.) in the following manner:

A) Metallic tanks shall be thoroughly coated on the outside with suitable rust-resisting dielectric material.

B) Field-installed cathodic protection systems are designed by a corrosion expert.

C) Impressed current systems are designed to allow determination of current operating status as required in Section 170.460(c).

D) Cathodic protection systems are operated and maintained in accordance with Section 170.460.

3) Steel tanks shall be set on firm foundations and surrounded with at least 12 inches of non-corrosive inert material such as clean sand or gravel, well-tamped in place. The tank shall be placed in the hole with care, since dropping or rolling the tank into the hole can break a weld, puncture or damage the tank or scrape off the protective coating of coated tanks.

4) Steel tanks shall be covered with a minimum of three feet of earth. USTs existing on October 1, 1985 shall have been buried so that the tops of the tanks will not be less than two feet below the surface of the ground or shall be under at least 12 inches of earth and a slab of reinforced concrete not less than four inches in thickness; the slab shall be set on a firm, well-tamped earth foundation and shall extend at least one foot beyond the outline of the tank in all directions. When asphaltic or reinforced paving is used as part of the protection, it shall extend at least one foot horizontally beyond the outline of the tank in all directions.

5) Either:

A) The tank is constructed of a steel-fiberglass-reinforced plastic composite (The following industry codes, incorporated by reference in Section 170.410, may be used to

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comply with this subsection (a)(5): Act-100 or UL 1746.); or
B) The tank construction and corrosion protection are determined by the Office of the State Fire Marshal to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health or the environment than subsections (a)(1) and (2) above. Before the installation of any such tank, its construction and corrosion protection shall be submitted to the Office in writing and is subject to written approval by the Office.

6) Re-certified tanks may satisfy the requirements of subsections (1) and (2) above; however, written proof of such re-certification shall be submitted to the Office of the State Fire Marshal.

b) Spill and overflow prevention equipment.

1) To prevent spilling and overfilling associated with product transfer to the UST system, owners or operators shall use the following spill and overfill prevention equipment:

A) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (e.g., a spill catchment basin); and

B) Overfill prevention equipment that:

i) Automatically shuts off flow into the tank when the tank is no more than 95 percent full;

ii) Alerts the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm; or

iii) Provides alternative methods that are no less restrictive than Subpart A or B and no less protective of human health or the environment, as approved in writing by the Office of the State Fire Marshal.

2) Owners or operators are not required to use the spill and overfill prevention equipment specified in subsections (b)(1)(A) and (B) of this subsection, if:

A) Alternative equipment is used that is determined by the Office of the State Fire Marshal in writing to be no less protective of human health or the environment than the equipment specified in subsection (b)(1)(A) and (B) of this subsection; or

B) The UST system is filled by transfers of no more than 25 gallons at one time.

c) Installation.

1) Excavation for USTs shall be made with due care to avoid undermining of foundations of existing structures. All USTs under buildings shall be located with respect to existing building foundations and supports so that the loads carried by the latter cannot be transmitted to the tank.

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- 2) All tanks and piping shall be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. (Tank and piping system installation practices and procedures described in the following codes, incorporated by reference in Section 170.410, may be used to comply with this subsection (2): API Recommended Practice 1615; PEI Publication RP100; or ANSI B31.3 and B31.4.)
- 3) Metallic tanks shall not be surrounded or covered by clinders or other material of corrosive effect. Corrosion protection shall be provided in accordance with Section 2-3.3 of NFPA 30, incorporated by reference in Section 170.410, where soil resistivity is 10,000 ohm-centimeters or less. Such corrosion protection shall be in accordance with API 1615, incorporated by reference in Section 170.410.
- d) Certification of installation.
- 1) Contractors shall certify on the UST notification form that:
- A) The installer has been certified or licensed by the Office of the State Fire Marshal.
- B) The installation has been inspected and approved by the Office of the State Fire Marshal.
- C) All work listed in the manufacturer's installation checklist has been completed.
- D) All applicable Office of the State Fire Marshal checklists as located in Appendix A of this Part for installation have been completed. Upgrades are to follow the appropriate Section of the installation guidelines.
- 2) In addition, contractors shall certify on the UST notification form in accordance with Section 170.440(f) that at least one of the following has been completed:
- A) The installer has been certified by the tank and piping manufacturers;
- B) The installation has been inspected and certified by a registered Professional Engineer with the State who has education and experience in UST system installation; or
- C) The owner or operator has complied with another method for ensuring compliance with subsection (c) above, that is determined by the Office of the State Fire Marshal in writing to be no less protective of human health or the environment.

(Source: Amended 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.421 Piping

- a) Piping, valves and fittings for flammable liquids shall be designed for the working pressures and structural stresses to which they may be

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- subjected and approved for their intended use. They shall be of steel or other materials suitable for use with the liquid being handled. Pipe-wall thicknesses being determined in accordance with ANSI B31, incorporated by reference in Section 170.410, shall be deemed to comply with this Section, except that carbon steel pipe shall not be thinner than standard wall thickness listed in ANSI B36, incorporated by reference in Section 170.410.
- b) Non-metallic piping systems conforming to the requirements of ANSI B31, incorporated by reference in Section 170.410, for use with flammable and combustible liquids are permitted underground.
- c) After installation, piping shall be tested for 30 minutes at a pressure of 50 percent in excess of the working pressure and shall be proven leak proof but no less than 50 PSI for pressurized piping. Suction type piping shall be tested with positive pressure of 5-7 PSI for 30 minutes.
- d) Piping that routinely contains regulated substances and is in contact with the ground shall be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as specified below:
- 1) The piping is constructed of fiberglass-reinforced plastic (the following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (1): UL 567; UL Canada Subject C107C; or UL Canada Standard CAN4-S633);
- 2) The piping is constructed of steel and cathodically protected in the following manner:
- A) The piping is coated with a suitable dielectric material;
- B) Field-installed cathodic protection systems are designed by a corrosion expert;
- C) Impressed current systems are designed to allow determination of current operating status as required in Section 170.460(C);
- D) Cathodic protection systems are operated and maintained in accordance with Section 170.460 (the following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection (2): NFPA 30; API Recommended Practice 1615; API Recommended Practice 1632; or NACE RP0285); or
- E) The piping construction and corrosion protection are determined by the Office of the State Fire Marshal to be designed to prevent the release or threatened release of any stored regulated substance, in a manner that is no less protective of human health and the environment than the requirements in subsections (b)(1) and (2) above. Before the installation of any such piping, its construction and corrosion protection shall be submitted to the Office in writing, and the Office shall issue written approval.

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- e) UST wiring procedures. All wiring at UST locations shall be in accordance with NFPA 70, incorporated by reference in Section 170.410. Wiring within 20 feet of tanks, within 20 feet of dispenser pumps or run in the product line trenches shall be installed in rigid metallic conduit or threaded steel conduit. Electrical conduit shall maintain at least six inches of separation from product piping to avoid damage from abrasion or stray electrical current and shall be routed away from product piping. Minimum cover is required in accordance with Table 300-5 of NFPA 70, incorporated by reference in Section 170.410. Intrinsically safe wiring shall be in conduit when installed within Class I locations, as specified in NFPA 70, incorporated by reference in Section 170.410. Caution should be taken when grounding since it impairs cathodic protection of metallic tanks or piping. When locating electrical wiring in the same trench as the product lines, the conduit shall be positioned on either side of the product piping but not above or below the product piping. This electrical conduit shall cross over the top of any product piping whenever a cross-over is necessary. A six-inch separation shall be maintained at all times, even during a cross-over. All cross-overs shall be kept to a minimum. All electrical power shall be shut off at the immediate location where installations, repairs or upgrades are in progress.
- f) Certification of installation shall be as per Section 170.420(d).

(Source: Added at 19 Ill. Reg. 54671, effective APR 01 1995)

Section 170.422 Clearance Required for Underground Storage Tanks

- a) Distance to basements, etc. Individual tanks shall be buried so that the tops of the tanks shall be lower than all floors, basements, cellars or pits of buildings within twenty feet, on or off the property, or tanks shall maintain a clearance of twenty feet to all buildings with basements.
- b) Distance to sewers, etc. Individual tanks and piping shall be buried so that the tops of the tanks and piping shall be lower than the bottom level of all sewers, manholes, catch-basins, cesspools, septic tanks, wells or cisterns within twenty feet, on or off the property, or tanks and piping shall maintain a full clearance of twenty feet. The term "sewer" includes sanitary and storm sewer lines out of service station buildings, provided, however, that these clearances shall not be required when a sewer line out of a service station is constructed throughout of cast iron with lead joints.
- c) Distance to property lines. Individual tanks shall be at least twenty feet to property lines, provided, however, that these clearances on the side adjacent to a public street, alley or highway are waived by consent of the authority having immediate jurisdiction over the public street, alley or highway, provided that the required sewer clearances will be maintained.

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- d) Distance to special classes of property. Tanks and pumps shall maintain a clearance of not less than 300 feet to any mine shaft, air or escape shaft for any mine and 85 feet to any school, institutional, public assembly or theater occupancy, as defined in NFPA 101, incorporated by reference in Section 170.10. The distance shall be measured from the nearest points of tanks and pumps to the nearest points of buildings or shafts.
- e) Where the site size makes compliance with these clearance requirements an impossibility or an imposition, as determined by the Office of the State Fire Marshal during a permit review, a double-wall tank or piping system or both with interstitial monitoring, shall be used and is subject to approval by the Office. Interstitial piping monitoring requirements will be waived for European Suction Piping Systems. Hazardous substance UST systems shall be double-wall, and all such existing systems shall be upgraded to double-wall by December 22, 1998.
- f) Tanks in service on October 1, 1985 may maintain existing underground tank clearances, provided they are in conformity with rules in effect on January 1, 1984. New setback distances will be required when upgrading these existing systems, if existing tanks are removed or if new tanks or islands are installed.

(Source: Added at 19 Ill. Reg. 54671, effective APR 01 1995)

Section 170.423 Pressure Testing

After installation, pressure testing, with air or other gases, of underground storage tanks or piping containing, or which have contained, flammable or combustible liquids is prohibited. Except, approved tank or line tightness testing with inert gases may be utilized, as specified in Sections 170.530(i) and 170.540(b).

(Source: Added at 19 Ill. Reg. 54671, effective APR 01 1995)

Section 170.424 Venting of Tanks

This Section is applicable to motor fuel tanks located at service stations, unless otherwise noted.

- a) Each tank shall be provided with a separate vent pipe, connected with the top of the tank and carried up to the outer air. The pipe shall be arranged for proper drainage to the storage tank, and its lower end shall not extend through top of tank for a distance of more than one inch; it shall have no traps or pockets. Float vent valve overflow devices are not considered an extension of the standard vent.
- b) The upper end of the pipe shall be provided with an updraft vent device only, with 40 gauge screening, unless alterations are required

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by Stage II Vapor Recovery.

- c) The vent pipe shall be of sufficient cross-sectional area to permit escape of air and vapor during the filling operation and in compliance with NFPA 30, incorporated by reference in 170.410, and in no case less than one and one-fourth inches in diameter. If a power pump is used in filling the storage tank, and a tight connection is made to the fill pipe, the vent pipe shall not be smaller than the fill pipe.
- d) The vent pipe shall terminate outside buildings at a point one foot above the level of the highest remote fill or any fill from which the tank may be filled, not less than 12 feet above the adjacent ground level and not less than four feet, measured vertically and horizontally, from any window or other building opening, such as a basement, cellar, pit, ventilated soffit or any air intake of any building, and in a location which will not permit pocketing of vapor or liquid. The vent piping shall project above adjacent roof lines.
- e) Manifolding of tank vent piping shall be avoided, except for required special purposes such as vapor recovery (NFPA 30 2-3.6.3, incorporated by reference in Section 170.410).
- f) No vent piping is allowed inside buildings. It is recommended that Stage II Vapor Recovery vent piping be connected to an individual tank opening.
- g) Adequate collision protection to protect against physical damage shall be provided for vent piping.
- h) Hazardous substance tanks and non-motor fuel tanks shall be vented in accordance with NFPA 30, incorporated by reference in Section 170.410 or as approved by the Office of the State Fire Marshal to be no less protective of human health or the environment.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.425 Fill Pipes

- a) Fill pipes shall be extended to a location outside of any building, as remote as possible from any doorway or other opening into any building and in no case closer than five feet from any such opening. Remote fills are subject to approval by the Office of the State Fire Marshal, on a case by case basis. Fill pipes for used oil tanks are permissible when located inside buildings.
- b) Location shall be in a place where there is a minimum danger of breakage from trucks or other vehicles.
- c) Each fill pipe shall be closed by a screw cap or other tight fitting cap of a type which can be locked. The cap shall be locked at all times when filling or gauging process is not being performed.
- d) Each loading pipe or fill pipe riser shall be identified by color code or labeling to indicate the product contained in the tank.
- e) Adequate collision protection to protect against physical damage shall be provided for fill pipes which protrude above-grade.

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(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.426 Pumps

- a) Petroleum and hazardous substances shall be transferred from tanks by means of fixed pumps so designed and equipped as to allow control of the flow and to prevent leakage or accidental discharge. The installation of siphon bars is prohibited. Existing siphon bars shall be removed from the UST system by December 22, 1998, or when the system is upgraded, whichever occurs first. In the event the system has been upgraded prior to April 1, 1995, the siphon bars shall be removed by December 22, 1998. Supplemental means shall be provided outside of the dispensing device whereby the source of power may be readily disconnected in the event of fire or other dangerous condition. Dispensing devices for petroleum and applicable hazardous substances shall meet the requirements of UL 842, incorporated by reference in Section 170.410. Liquid shall be withdrawn from tanks by means of pumps in conformity with Chapter 5 of NFPA 70, incorporated by reference in Section 170.410, and equipped with static wire hose and non-ferrous discharge nozzle, except that used oil tanks are not subject to the requirement of transfer by means of fixed pumps. No pump or dispensing device shall be located within a building. This does not include pump houses designed to house transfer pumps only; also, this does not include pump houses designed to house transfer pumps at refineries used in conjunction with pipeline product transfers or any refinery processing. Transfer pumps located at industrial or commercial facilities are excluded from the requirements of this Section. Dispensers located at industrial or commercial facilities that contain a regulated substance shall be approved by the Office of the State Fire Marshal.
- b) Existing pumps and dispensing devices within garages, as of October 1, 1985, are permitted provided the dispensing area is:

- 1) Not below-grade;
 - 2) Separated from motor vehicle repair areas, pits and basements;
 - 3) Protected against physical damage from vehicles by mounting the dispensing unit on a concrete island or by equivalent means;
 - 4) Located in a position where it cannot be struck by a vehicle descending a ramp or other slope out of control.
 - 5) Provided with an approved mechanical or gravity ventilation system; and
 - 6) Provided with a clearly identified switch, readily accessible in case of fire or physical damage to any dispensing units to shut off the power to dispensing units.
- 2) Existing dispensing units located below-grade, as of October 1, 1985, shall have independent mechanical ventilation systems and

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the entire dispensing area shall be protected by an automatic sprinkler system conforming to the requirements of 41 Ill. Adm. Code 100.220.

A) The ventilation systems shall be electrically interlocked with the gasoline dispensing units, so that the dispensing units cannot be operated unless the ventilation fan motors are energized and operating.

B) Existing dispensing units located below-grade within buildings shall also comply with subsection (b)(1) above, as applicable.

C) Curb pumps or pumps located in any portion of a public street are prohibited.

D) Wiring of electric pumps and all electrical equipment in connection therewith shall conform to Chapter 5 of NFPA 70, incorporated by reference in Section 170.410 (product piping and electrical wiring shall be as directed in Section 170.421(e)).

E) Devices which discharge by gravity are prohibited and were to have been removed by January 1, 1986. Gravity devices at service stations which are retained for their novelty or historical interest may be retained at the facility but shall be rendered non-functional.

F) Systems which employ continuous air pressure on storage tanks in connection with gauging or venting devices are prohibited, with the exception of those systems utilized in Stage II Vapor Recovery.

G) The use of aboveground storage tanks in connection with gauging or venting devices is prohibited, as clarified elsewhere in this Section. Retail sales from aboveground tanks is prohibited except as allowed in 41 Ill. Adm. Code 180.

H) New installations of apparatus for dispensing petroleum into fuel tanks of vehicles shall not be connected to either aboveground or underground bulk storage tanks. This does not include cargo tanks mounted on tanker trucks for transporting purposes.

I) Dispensing devices at an automotive service station shall be so located that all parts of the vehicle being served will be on the premises of the service station. For dispensing devices located inside buildings, openings beneath dispenser enclosures shall be sealed to prevent the flow of leaking fuel to lower building spaces. Pump houses designed to house transfer pumps only are not considered buildings, as per this Section.

J) Dispensing devices at marine service stations may be located on open piers, wharves, floating docks, on shore or on piers of the solid-fill type and shall be located away from other structures so as to provide room for safe ingress and egress of craft to be fueled. Openings beneath marina dispensing enclosures shall be sealed to prevent the flow of leaking fuel into the water beneath them. Marina installations shall follow guidelines located in Appendix E of this Part, as established by the Office of the State Fire Marshal. Spill containment shall be provided on docks adjacent to dispensers to contain spills that may occur during the filling of approved portable

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containers.

K) Dispensing units existing prior to September 15, 1978, may be located inside buildings if specific written approval of the Office of the State Fire Marshal was granted by October 1, 1985, and proof of such was submitted by the applicant and verified by the Office. The dispensing area shall be separated from other areas by two-hour fire resistive construction, as defined in Section 707 of the BOCA National Building Code, incorporated by reference in Section 170.410. The dispensing area shall be provided with a mechanical or gravity ventilation system; all components of which shall comply with the requirements of NFPA 70, incorporated by reference in Section 170.410. Kerosene dispensers shall not be located on the same island with petroleum or hazardous substances. Labeling of dispensers shall comply with the Space Heating Safety Act (425 ILCS 65).

M) Hoses at service stations shall not exceed 18 feet in length, as required in NFPA 30A 4-2.6, referenced in Section 170.410, except as permitted in subsection (n) below.

N) Mechanical retractable hose reels are required on dispenser hoses in excess of 18 feet in length. Hose length on mechanical retractors shall not exceed 50 feet and may only be installed with written approval of the Office of the State Fire Marshal.

O) Dispenser pumps shall be located outside of buildings and not less than five feet from any building or less than five feet measured vertically and horizontally from any window or other building opening, such as a basement, cellar, pit, ventilated soffit or any air intake or exhaust of any building, and in a location that will not permit pocketing of vapor or liquid. The Office of the State Fire Marshal shall approve dispenser locations only where in its judgment a safety hazard does not exist. Location of new dispenser pumps shall be in accordance with the following:

- 1) Not below-grade;
- 2) Separated from motor vehicle repair areas, pits and basements;
- 3) Protected against physical damage from vehicles by mounting the dispensing unit on a concrete island or by equivalent means; and
- 4) Located in a position where it cannot be struck by a vehicle descending a ramp or other slope out of control.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.427 Defective or Non-Compliant Equipment

Equipment that is defective or does not comply with this Subpart shall be taken out of service until repaired, replaced or upgraded by owners or operators with Office of the State Fire Marshal approved equipment. Equipment that has not met an upgrade deadline requirement is in compliance until that deadline; this does not include equipment that has received a variance from the Office.

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(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.428 General Requirements for UST Fuel Dispensing Systems

- a) Where tanks are at an elevation which produces a gravity head on the dispensing device, the tank outlet shall be equipped with a device, such as a solenoid valve, positioned downstream as close as possible to the tank, so installed and adjusted that liquid cannot flow by gravity from the tank.
- b) Where dispensing is from a floating structure, suitable lengths of approved flexible hose may be employed between the shore piping and the piping on the floating structure as made necessary by change in water level or shoreline.
- c) Where excessive stray currents are encountered, piping containing liquids at marine service stations shall be electrically insulated from the shore piping.
- d) All piping shall be located so as to be protected from physical damage.
- e) A readily accessible valve to shut off the product supply from shore shall be provided in each pipeline at or near the approach to the pier and at the shore-end of each marine pipeline adjacent to the point where a flexible hose is attached.
- f) Each fill pipe for liquid storage shall be identified by color code or other marking to identify the product for which the tank is used. The color code or marking shall be maintained in legible condition throughout the life of the tank system.
- g) A clearly identified and easily accessible emergency shut-off switch shall be provided at a location remote from dispensing devices, to shut off the power to all dispensing devices in the event of an emergency. Emergency controls shall be installed at a location approved by the Office of the State Fire Marshal, but controls shall be at least 20 feet but not more than 100 feet from dispensers.
- h) All dispensing devices shall be protected against collision damage by suitable means. Dispensing devices shall be listed by an approved testing laboratory.
- i) A control shall be provided that will permit the pump to operate only when a dispensing nozzle is removed from its bracket or normal position with respect to the dispensing device, and the switch on this dispensing device is manually activated. This control shall also stop the pump when all nozzles have been returned, either to their brackets or normal non-dispensing position.
- j) A listed emergency breakaway device designated to retain liquid on both sides of the breakaway point shall be installed on each hose. Where hoses are attached to a hose-retrieving mechanism, the listed emergency breakaway device shall be installed between the point of attachment of the hose-retrieving mechanism to the hose and the hose nozzle valve.

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- k) Pressurized piping systems require a listed rigidly anchored emergency shut-off valve installed in the supply line at the base of each individual dispenser. Such valve shall incorporate a fusible link or other thermally activated device, designed to close automatically in the event of severe impact or fire exposure.
- l) Listed automatic-closing type hose nozzle valves shall be provided on all dispensers. Dispensing nozzles used at marine service stations shall not be provided with a latch-open device.
- m) Marine service stations shall be of the attended type only.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.430 Upgrading of Existing UST Systems

- a) Alternatives allowed:--Not later than December 27, 1998, all existing UST systems must comply with one of the following requirements:
 - 1) New UST system performance standards under Section 170.429.
 - 2) The upgrading requirements in subsections (b) through (d), or
 - 3) Temporary closure or removal requirements under Sections 170.629 through 170.679, including applicable requirements for corrective action under 49 CFR 200.7, Subpart P, incorporated by reference in Section 170.419.
- b) Tank upgrading requirements:--Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:
 - 1) Interior lining:--A tank may be upgraded by internal lining if the lining is installed in accordance with the requirements of Section 170.430 and the following are complied with:
 - A) Tank Entry:--Before entering tanks, the procedures described in API Publication 2015 and 2015A7 incorporated by reference in Section 170.419 shall be complied with. This includes checking the oxygen content inside the tank with a properly calibrated oxygen monitor. At all times, personnel entering the tank shall be equipped with positive pressure air supplied equipment with full face enclosure and safety harness connected to a safety line held by an attendant outside the tank. 9 ft and water resistant rubber or neoprene boots and gloves shall be worn. Clothing shall cover the arms, legs, torso and head of tank entry personnel. Disposable clothing impervious to product is preferred. Clothing saturated with product shall be removed immediately upon departure from the tank. All personnel working inside the tank shall be familiar with ANSI 311.7 incorporated by reference in Section 170.419. Tests with the combustible gas indicator and oxygen monitor shall be performed periodically in the tank to ascertain that the

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tank vapors and oxygen content are in the safe range---it shall be recognized that if the tank is perforated---product or vapors which have leaked into the soil may re-enter the tank through a perforation---the vent line shall remain clear and unobstructed to allow continuous ventilation---All other lines and openings shall be plugged or capped---off to insure no liquids or vapors may enter the tank during the lining operation

Application of Linings---Prior to the application of lining material---a 1/4 inch steel reinforcing plate rolled to the contour of the tank and with minimum dimensions of 8 inches by 8 inches shall be installed under the fit (drop) tube and gauging tube---this plate shall be covered with fiberglass cloth impeded in resin---the plate---lined surface shall be coated within eight hours after blasting and before any visible rusting occurs---Only those lining materials meeting the specifications in Air Publication 16317 incorporated by reference in Section 170-410 shall be used---Manufacturers' instructions are to be complied with on handling and mixing of resin compounds---and these compounds shall be applied to the entire interior surface of the tank---by the manufacturer or the manufacturer's designated distributor following the specified method of application---to the designated thickness and at the recommended application temperature---If a heater is used to accelerate the curing process at other work which might release flammable vapors shall be heated and the heating unit shall be attended whenever it is in operation---the coating shall be cured thoroughly to the manufacturer's specifications and checked for air pockets and pinholes using a Holiday Detector---If any exceptions are found they shall be repaired to manufacturer's specifications---the contractor shall protect the coated surfaces from contamination by foreign matter---The coating thickness shall be checked with an Electrometer Gauge or equivalent and tested for hardness using a Barcol Hardness Tester---or equivalent---to ensure compliance with manufacturer's specifications

Tank Staging---If an opening has been cut in the tank shall be sealed as follows:

1) A 1/4 inch thick steel cover plate rolled to the contour of the tank shall be made to overlap the hole at least 40 inches on each side 1/4 inch round measure at least 26 inches by 26 inches if manhole was cut 22 inches by 22 inches

2) The cover shall be used as a template to locate 3/4 inch diameter holes not exceeding five inch centers one inch from the edge of the cover

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1) The cover plate shall be sandblasted to white metal on both sides and the entire inside surface shall be coated material to act as a gasket

2) Before the coating on the cover plates the cover shall be fastened to the tank using 1/2 inch minimum diameter bolts---the bolt shafts are to be placed through the holes from the inside of the tank and held in place by spring clips---then fastened with steel washers and nuts as illustrated in accordance with API Publication 16317 incorporated by reference in Section 170-410 and

3) After being bolted to the tank the cover plate and surrounding tank surface shall be properly sandblasted coated with coating material and allowed to cure before backfitting the note

4) Tank tightness testing---Before backfitting the tank shall be tightness tested in accordance with Section 170-330 (c) Particular attention shall be paid to the cover plate and all exposed fittings

5) Within 10 years after fitting and every five years thereafter the lined tank shall be internally inspected and found to be structurally sound with the fitting still performing in accordance with original design specifications

6) Cathodic protection---A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirement of Section 170-420 (a) (2) (b) through (d) and the integrity of the tank is ensured using one of the following methods:

A) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system

B) The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with Section 170-530 (d) through (f)

C) The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests the first tightness test must be conducted prior to installing the cathodic protection system the second tightness test must be conducted between three and six months following the first inspection of the cathodic protection system or

D) The tank is assessed for corrosion holes by a method that is determined by the Office of the State Fire Marshal to prevent releases in a manner that is no less protective of human health and the environment than subsection (c) (2) (b) through (f) before the installation of any such method---it shall be submitted to the Office in writing and the Office shall issue written approval

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- 3) Internal lining combined with cathodic protection--A tank may be upgraded by both internal lining and cathodic protection if:
- A) The lining is installed in accordance with the requirements of subsection (b)(1) and Section 170.480; and
- B) The cathodic protection system meets the requirements of Section 170.420(a)(2)(B) through (D);--The following codes and standards, incorporated by reference in Section 170.410 may be used to comply with this Section: API Recommended Practice 1631;--NAPA--Standard--631;--NACE--RP0208;--or--API Recommended Practice 1632;+
- c) Piping--upgrading--requirements--Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by--a--nationally-recognized association--or--independent testing laboratory--and--must--meet--the--requirements--of--Section 170.420(a)(2)(B) through (D);--The codes and standards listed in Section 170.420(a)(2) may be used to comply with this requirement;+
- d) Spill and overflow prevention equipment:--To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system split--and overfill--prevention equipment--requirements--specified--in--Section 170.420(c);
- a) Alternatives allowed. Not later than December 22, 1998, all existing petroleum and hazardous substance UST systems were to have complied with one of the following requirements:
- 1) New UST system performance standards under Section 170.420;
 - 2) The upgrading requirements in subsections (b) through (d) below; or
 - 3) Temporary out-of-service status, abandonment-in-place or removal requirements under Section 170.620 or 170.670, including applicable requirements for initial response and initial abatement under Sections 170.600 and 170.610, respectively.
- b) Tank upgrading requirements. Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:
- 1) Interior lining. (Refer to reline checklist located in Appendix B.) A tank may be upgraded by internal lining if the lining is installed in accordance with the requirements of Section 170.480, and the following are complied with:
 - A) Tank Entry. Before entering tanks, the procedures described in API Publication 2015 and 2015A, incorporated by reference in Section 170.410, shall be complied with. This includes checking the oxygen content inside the tank with a properly calibrated oxygen monitor. At all times, personnel entering the tank shall be equipped with positive pressure air supplied equipment with full face enclosure and safety

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harness connected to a safety line held by an attendant outside the tank. Oil and water-resistant rubber or neoprene boots and gloves shall be worn. Clothing shall cover the arms, legs, torso and head of tank entry personnel. Disposable clothing, impervious to product, is preferred. Clothing saturated with product shall be removed immediately upon departure from the tank. All personnel working inside the tank shall be familiar with ANSI Z117.1, incorporated by reference in Section 170.410. Tests with the combustible gas indicator and oxygen monitor shall be performed periodically in the tank to ascertain that the tank vapors and oxygen content are in the safe range. It shall be recognized that if the tank is perforated, product or vapors that have leaked into the soil may re-enter the tank through a perforation. The vent line shall remain clear and unobstructed to allow continuous ventilation. All insure no liquids or vapors may enter the tank during the lining operation.

B) Application of Lining. Prior to the application of lining material, a 1/4 inch steel reinforcing plate rolled to the contour of the tank and with minimum dimensions of 8 inches by 8 inches shall be installed under the fill (drop) tube and gauging tube. This plate shall be covered with fiberglass cloth embedded in resin. The blast-cleaned surface shall be coated within eight hours after blasting and before any visible rusting occurs. Only those lining materials meeting the specifications in API Publication 1631, incorporated by reference in Section 170.410, shall be used. Manufacturer's instructions are to be complied with on handling and mixing of resin compounds, and these compounds shall be applied to the entire interior surface of the tank by the manufacturer or the manufacturer's designated distributor following the specified method of application, to the designated thickness and at the recommended application temperature. If a heater is used to accelerate the curing process, all other work which might release flammable vapors shall be halted, and the heating unit shall be attended whenever it is in operation. The coating shall be cured thoroughly to the manufacturer's specifications and checked for air pockets and pinholes using a Holiday Detector. If any exceptions are found, they shall be repaired to manufacturer's specifications. The contractor shall protect the coated surfaces from contamination by foreign matter. The coating thickness shall be checked with an Elcometer Thickness Gauge or equivalent and tested for hardness using a Barcol Hardness Tester or equivalent to ensure compliance with

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manufacturer's specifications.

- C) Tank Closing. If an opening has been cut, the tank shall be sealed as follows:

- i) A 1/4 inch thick steel cover plate, rolled to the contour of the tank, shall be made to overlap the hole at least two inches on each side (e.g., should measure at least 26 inches by 26 inches, if manhole was cut 22 inches by 22 inches);
- ii) The cover shall be used as a template to locate 3/4 inch diameter holes not exceeding five inch centers, one inch from the edge of the cover;
- iii) The cover plate shall be sandblasted to White Metal on both sides, and the entire inside surface shall be coated with coating material to act as a gasket;
- iv) Before the coating on the cover cures, the cover shall be fastened to the tank using 1/2 inch (minimum) diameter bolts. The bolt shafts are to be placed through the holes from the inside of the tank and held in place by spring clips, then fastened with local washers and nuts as illustrated in accordance with API Publication 1631, incorporated by reference in Section 170.410; and

- v) After being bolted to the tank, the coverplate and surrounding tank surface shall be properly sandblasted, coated with coating material and allowed to cure before backfilling the hole.

- D) Tank Tightness Testing. Before backfilling, the tank shall be tightness tested in accordance with Section 170.530(c). Particular attention shall be paid to the cover plate and all exposed fittings.

- E) Within 10 years after lining, and every five years thereafter, the lined tank shall be internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

- 2) Cathodic protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of Section 170.420(a)(2)(B) through (D), and the integrity of the tank is ensured using one of the following methods:

- A) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system;

- B) The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with Section 170.530(d) through (h);

- C) The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness

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tests that meet the requirements of Section 170.530(c). The first tightness test shall be conducted prior to installing the cathodic protection system. The second tightness test shall be conducted between three and six months following the first operation of the cathodic protection system; or

D) The tank is assessed for corrosion holes by a method that is determined by the Office of the State Fire Marshal to prevent releases in a manner that is no less protective of human health or the environment than subsections (b)(2)(A) through (C) above; before the utilization of any such method, it shall be submitted to the Office in writing and is subject to written approval by the Office.

- 3) Internal lining combined with cathodic protection. A tank may be upgraded by both internal lining and cathodic protection if:

- A) The lining is installed in accordance with the requirements of subsection (b)(1) above and Section 170.480; and

- B) The cathodic protection system meets the requirements of Section 170.420(a)(2)(B) through (D). (The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this Section: API Recommended Practice 1631; NLPAA Standard 631; NACE RPO285; or API Recommended Practice 1632.)

An interior inspection for an installation of internal lining combined with cathodic protection is required only once, provided an interior inspection was performed in compliance with subsection (3)(A) or (B) above.

- c) Piping upgrading requirements. Metal piping that routinely contains regulated substances and is in contact with the ground shall be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and shall meet the requirements of Section 170.421 (The codes and standards listed in Section 170.421 may be used to comply with this requirement.)

- d) Spill and overflow prevention equipment. To prevent spilling and overflowing associated with product transfer to the UST system, all existing UST systems shall comply with new UST system spill and overflow prevention equipment requirements specified in Section 170.420(b).

(Source: Amended at 19 Ill. Reg. **5467**, effective **APR 01 1995**)

Section 170.431 Limitation on Interior Lining of USTs

Effective April 1, 1995, an underground storage tank may only have interior lining applied once without the UST being re-certified. Any additional relinings shall require re-certification prior to each application. This Section supercedes any incorporation by reference as cited in Section 170.410.

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(Source: Added at 19 Ill. Reg. **5467**, effective
APR 01 1995)

Section 170.440 Notification Requirements for Purposes of UST Registration

- a) Any owner who brings an underground storage tank system into use after April 21, 1989, must within 30 days of bringing such tank into use submit in the form prescribed by the Office of the State Fire Marshal a notice of existence of such tank system to the Office. Owners are required to submit notices under subsection (a) must provide notice for each tank they own. Owners may provide notice for more than one tank using one notification form but owners who own tanks located at more than one facility or site must file a separate notification form for each separate facility or site.
- e) Notices required to be submitted under subsection (a) must provide all of the information requested in the form prescribed by the Office of the State Fire Marshal.
- d) All owners and operators of new UST systems must certify in the notification form compliance with the following requirements:
- 1) Installation of tanks and piping under Section 170.420(e).
 - 2) Cathodic protection of steel tanks and piping under Section 170.420(f) and (g).
 - 3) Financial responsibility under 10-6PR-280, Subpart H incorporated by reference in Section 170.410 and
 - 4) Release detection under Sections 170.510 and 170.520.
- e) All owners and operators of new UST systems must ensure that the installer certifies in the notification form that the method used to install the tanks and piping comply with the requirements of Section 170.420(d).
- f) Any change in information stated in the form as described in subsection (a) is to be submitted to the Office of the State Fire Marshal on an amended form as prescribed by the Office within 30 days, commencing from the date of such change.
- g) Beginning April 22, 1989, any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owner's notification obligations under subsection (a). The notification form provided by the Office of the State Fire Marshal may be used to comply with this requirement.
- a) For any UST, with the exception of a UST containing heating oil not for consumptive use on the premises where stored:
- 1) Any owner of an underground storage tank system in operation at any time after January 1, 1974, and in the ground as of September 24, 1987, shall submit immediately a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office.
 - 2) Any owner of an underground storage tank system brought into operation on or after April 21, 1989, shall submit, within 30

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days after bringing such tank into operation, a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office. This applies even if the UST was subject to a change-in-service, pursuant to Section 170.630(a) or (b), within the 30-day time period.

- 3) For the definition of UST, see Section 170.400.
 - 4) The Office of the State Fire Marshal shall use the information required to be submitted, pursuant to this subsection (a), to determine registrability of USTs.
- b) For a UST containing heating oil for consumptive use on the premises where stored:
- 1) Any owner of a heating oil underground storage tank system greater than 1100 gallons in capacity and in the ground as of July 11, 1990, shall submit immediately a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office.
 - 2) Any owner of a heating oil underground storage tank system greater than 110 gallons and less than or equal to 1100 gallons in capacity and in the ground as of September 6, 1991, shall submit immediately a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office.
 - 3) Any owner of a heating oil underground storage tank system greater than 110 gallons in capacity installed after September 6, 1991, shall submit, within 30 days after bringing such tank into operation, a notice of existence of such tank system to the Office of the State Fire Marshal, on the form prescribed by the Office. This applies even if the UST was subject to a change-in-service, pursuant to Section 170.630(a) or (b), within the 30-day time period.
 - 4) Heating oil tanks used exclusively for storing heating oil for consumptive use on a farm or residence are exempt from being classified as a UST.
 - 5) The Office of the State Fire Marshal shall use the information required to be submitted, pursuant to this subsection (b), to determine registrability of USTs.
- c) Owners required to submit notices under subsection (a) or (b) above shall provide notice for each tank they own. Owners may provide notice for more than one tank using one notification form, but owners who own tanks located at more than one facility shall file a separate notification form for each separate facility.
- d) Owners shall provide all of the information referenced in subsections (a) and (b) above, as prescribed by the Office of the State Fire Marshal in the forms, including any certification required of the owner by this Part.
- e) Any owner of a new UST system shall certify in the notification form compliance with the following requirements:
- 1) Installation of tanks and piping under Sections 170.420 and

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- 170.421;
2) Cathodic protection of steel tanks and piping under Sections 170.420(a) and 170.421(d);

- 3) Release detection under Section 170.510 or 170.520; and

- 4) Financial responsibility in accordance with Subpart C.

- f) All owners and operators of UST systems, which have been installed, upgraded or relined at any time since January 1, 1989, shall make a reasonable effort to ensure that the contractor certifies in the notification form that the methods used to perform the UST activity comply with the requirements of Section 170.420(d), and the contractor shall complete the certification. Such notification form is to be submitted to the Office of the State Fire Marshal within 30 days after the completion of the activity requiring certification.

- g) Any change in information stated in the form as described in subsections (a) and (b) above is to be submitted to the Office of the State Fire Marshal on an amended form, as prescribed by the Office, within 30 days, commencing from the date of such change. This includes, but is not limited to, removal, abandonment-in-place and temporary out-of-service status. A change in ownership is considered a change in information and is the responsibility of each subsequent owner to so report.

- b) Commencing April 1, 1995, any person who sells a new or re-certified tank, intended to be used as an underground storage tank, shall notify the purchaser of such tank of the owner's notification obligations under subsections (a)(2) and (b)(3) of this Section. The notification form provided by the Office of the State Fire Marshal may be used to comply with this requirement.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.441 Payment of 1988 Annual UST Fee

The owner of any registered underground petroleum storage tank (excluding heating oil USTs for consumptive use on the premises where stored) in the ground at any time in 1988 and in operation at any time after January 1, 1974, shall pay a 1988 annual fee of \$100 per tank on or before 90 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal."

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.442 UST Registration Fees

- a) For USTs, with the exception of USTs containing heating oil for consumptive use on the premises where stored:
The owner of any petroleum or hazardous substance underground storage

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tank required to be registered with the Office of the State Fire Marshal prior to September 24, 1987, and who did not so register, shall do so and pay the Office a registration fee of \$500 per tank on or before 90 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal." For purposes of this subsection (a), "owner" refers only to the last owner as of September 23, 1987.

- b) For USTs containing heating oil greater than 110 gallons for consumptive use on the premises where stored:

- 1) The owner of any heating oil underground storage tank in the ground as of September 6, 1991, and who first registered the tank with the Office of the State Fire Marshal prior to July 2, 1992, shall pay to the Office a registration fee of \$100 per tank on or before 90 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal."

- 2) The owner of any heating oil underground storage tank in the ground as of September 6, 1991, and who first registered the tank with the Office of the State Fire Marshal on or after July 2, 1992 (never having been registered prior thereto), shall pay to the Office a registration fee of \$500 per tank on or before 90 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal."

- 3) For purposes of subsections (1) and (2) above, the owner who first registers a heating oil UST is responsible for the fee, which shall be either \$100 or \$500, whichever is applicable, but not both.

- 4) The owner of any heating oil underground storage tank in the ground as of July 11, 1990, but removed prior to September 6, 1991, although regulated, is not required to pay a registration fee.

- 5) The owner of any heating oil underground storage tank installed in the ground on or after July 2, 1992, although regulated, is not required to pay a registration fee.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.450 Spill and Overfill Release Control

- a) Owners and operators must ensure that releases due to spilling or overfilling do not occur. The owner owners and operator operators must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling. (The transfer procedures described in NFPA, 385, incorporated by reference

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in Section 170.410, may be used to comply with this subsection. Further guidance on spill and overfill prevention appears in API Recommended Practice 1621 and NFPA Standard 30, incorporated by reference in Section 170.410.)

- b) ~~the owner and operator must~~ Owners or operators shall report, investigator and clean up any spills and overfills in accordance with Section Sections 170.570 and 170.580.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.460 Operation and Maintenance of Corrosion Protection

All owners Owners and or operators of steel UST systems with corrosion protection must shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances:

- a) All corrosion protection systems must shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground, and
- b) All UST systems equipped with cathodic protection systems must shall be tested and inspected for proper operation, prior to being put into operation, by a qualified cathodic protection tester in accordance with the following requirements:

- 1) Frequency. All cathodic protection systems must shall be re-tested tested within six months of installation and at least every three years thereafter.

- 2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this subsection (b) must shall be in accordance with NACE Standard Recommended Practice RP0169-83 and RP0285-85, incorporated by reference in Section 170.410.

- c) UST systems with impressed current cathodic protection systems must shall also be tested and inspected, prior to being put into operation and every 60 days thereafter, to ensure the equipment is running properly.

d) For UST systems using current cathodic protection, records of the operation of the cathodic protection must shall be maintained (in accordance with Section 170.490) to demonstrate compliance with the performance standards in this Section. These records must shall provide the following:

- 1) The results of testing from the last three inspections required in subsection (c) two inspections required in subsection (b) above; and
- 2) The results of testing from the last two inspections required in subsection (b) three inspections required in subsection (c) above.

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e) Alternative methods of corrosion protection may be used if approved in writing by the Office of the State Fire Marshal provided they are no less protective of human health or the environment.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.470 UST Compatibility with Product Stored

Owners and or operators must shall use an a UST system made of, or lined with, materials that are compatible with the substance product stored in the UST system. (Owners and operators storing alcohol blends may use the following codes, incorporated by reference in Section 170.410, to comply with the requirements of this Section: API Recommended Practice 1626 and 1627.)

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.480 Repairs Allowed

Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

- a) Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection: NFPA 30, API Publication 2900, API Recommended Practice 1631, or NEPA Standard 631.
 - b) Repairs to fiberglass reinforced plastic tanks may be made by the manufacturer, authorized representatives or in accordance with ANSI 317.1 or API Recommended Practice 1631.
 - c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications.
 - d) Repaired tanks and piping must be tightness tested in accordance with Sections 170.530(c) and 170.540(b) within 30 days following the date of the completion of the repair except as provided in subsection (a)(4).
- 1) The repaired tank is internally inspected in accordance with ANSI 317.1 or API Recommended Practice 1631.
 - 2) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in Section 170.530(d) through (h) or
 - 3) Another test method is used that is determined by the Office of the State Fire Marshal to be no less protective of human health

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- e) ~~and--the--environment--than--those--listed--in--subsections--(a)(4)(A) and--(B)--before--the--utilization--of--any--such--method--it--shall--be submitted--to--the--Office--in--writing--and--the--Office--shall--issue written--approval--~~
- e) ~~Within--six--months--following--the--repair--of--any--cathodically--protected UST--system--the--cathodic--protection--system--must--be--tested--in accordance--with--Section--170.460(b)--and--(c)--to--ensure--that--it--is operating--properly--~~
- f) ~~UST--system--owners--and--operators--must--maintain--records--of--each--repair for--the--remaining--operating--life--of--the--UST--system--that--demonstrates compliance--with--the--requirements--of--Section--170.480--~~

Owners or operators of UST systems shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. Any hole or penetration made into a tank such as is required for new bung openings or any entrance way established for interior relining, inspection or repair shall be installed and closed as per this Section. The repairs shall meet the following requirements:

- a) Repairs to UST systems shall be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory. (The following codes and standards, incorporated by reference in Section 170.410, may be used to comply with this subsection: NFPA 30; API Publication 2200; API Recommended Practice 1631; or NUPA Standard 631.)
- b) Repairs to fiberglass-reinforced plastic tanks may be made by an authorized representative of the manufacturer or in accordance with ANSI Z117.1 or API Recommended Practice 1631.
- c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications.
- d) Repaired tanks and piping shall be tightness tested in accordance with Sections 170.530(c) and 170.540(b) within 30 days following the date of the completion of the repair, except as provided in subsections (1) through (3) below:
- 1) The repaired tank is internally inspected in accordance with ANSI Z117.1 or API Recommended Practice 1631;
- 2) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in Section 170.530(d) through (h); or
- 3) Another test method is used that is determined by the Office of the State Fire Marshal to be not less protective of human health or the environment than those listed in subsections (1) and (2) above; before the utilization of any such method, it shall be submitted to the Office in writing, and is subject to written approval by the Office.
- e) Within six months following the repair of any cathodically protected UST system, the cathodic protection system shall be re-tested in

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- f) ~~UST system owners or operators shall maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this Section.~~
- g) ~~All materials used to make necessary repairs shall comply with Section 170.420.~~
- h) ~~When a tank is determined to be leaking, it can be permanently abandoned-in-place (subject to Section 170.670), removed (subject to Section 170.670), replaced (subject to Section 170.420) or repaired (subject to this Section).~~
- i) ~~Removal or abandonment-in-place of a leaking tank shall be in compliance with Section 170.670. Leaking piping shall be removed or abandoned-in-place in compliance with Section 170.670.~~
- j) ~~Storage tanks may be glass or epoxy lined, provided that:~~

- 1) ~~Such repair and the proposed materials are compatible with the product to be stored in such repaired tank.~~
- 2) ~~The manufacturers of materials used to reline or repair leaking tanks for the storage of petroleum or hazardous substances shall register with the Office of the State Fire Marshal. The manufacturers shall provide and maintain a current annual list of installers of their particular methods and materials for relining and repairing tanks. Such lists shall only contain the names of installers who are certified by the respective manufacturers. This manufacturer's registration shall include the submission of evidence for materials and tank specifications as indicated in NUPA Standard 631, incorporated by reference in Section 170.410.~~

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.481 Emergency Repairs

- a) An emergency consists of a defect in an underground storage tank or system that is causing or threatens to cause harm to human health or the environment, or presents a threat to fire safety, and contact of the regulated substance with the defect cannot be prevented. In the event of a release, Section 170.560 and any other applicable Section in this Subpart shall be followed.
- b) If minor or temporary repairs are required to correct the defect, only the defective area can be repaired.
- c) Economic loss or the threat of economic loss does not constitute such an emergency.
- d) Minor or temporary repairs, as a result of an emergency, to tanks or piping may begin on weekends, holidays and after business hours, when the repairs would otherwise require a permit prior to being performed. Permit applications, if required, for any such UST activity shall be submitted to the Office of the State Fire Marshal after-the-fact, on

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the next business day. All such repairs shall be inspected and tested prior to the repaired UST system being put back into operation unless otherwise directed by the Office.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.490 Reporting and Recordkeeping

a) Reporting. Owners and or operators must submit the following information to the Office of the State Fire Marshal, Illinois Emergency Management Agency or any other applicable agency:

- 1) Notification for all UST systems (Section 170.440), which includes certification of installation for new UST systems (Section 170.420(e) and 170.421);
- 2) Reports of all releases including suspected releases (Section 170.560), spills and overfills (Section 170.590) and confirmed releases (Section 170.600);
- 3) Initial response, including leak abatement, site characterization and fire and explosion mitigation (40-EPR-2887 Subpart F--incorporated-by-reference-in-Section-170-440 Sections 170.600 and 170.610); and
- 4) A notification before removal or change in service (40-EPR-2887 Subpart F--incorporated-by-reference-in-Section 170-440 or 170-440-Notification of a change in service (Section 170.440) or notification of any UST activity requiring a permit (Section 170.530 or 170.481).

b) Recordkeeping. Owners and or operators must shall maintain the following information:

- 1) Documentation of operation of corrosion protection equipment (Section 170.460);
- 2) Documentation of UST system repairs (Section 170.480(f));
- 3) Recent compliance with release detection requirements (Section 170.550); and
- 4) Results of the site investigation conducted at removal or change-in-service (Section 170.660).

c) Availability and Maintenance of Records. Owners and or operators must shall keep the records required either:

- 1) At the UST site and immediately available for inspection by the Office of the State Fire Marshal; or
- 2) At a readily available alternative site in-the-State and be provided for inspection to the Office of the State Fire Marshal upon request, within 24 hours.
- 3) In the case of removal records required under 40-EPR-2887-Subpart F--incorporated-by-reference-in-Section-170-440 Section 170.660, owners and or operators are also provided with the additional alternative of mailing removal records to the Office of the State Fire Marshal, if they cannot be kept at the site or an

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alternative site as indicated in subsections (c)(1) and (2) of this Section.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.500 General Release Detection Requirements for All UST Systems

a) Owners and operators of new and existing UST systems must provide a method or combination of methods of release detection that:

- 1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;
- 2) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and
- 3) Meets the performance requirements in Sections 170.530 and 170.540. With any performance rating and their manner of determination described in writing by the equipment manufacturer or installer in addition to methods used after December 22, 1999 (except for methods permanently installed prior to that date) must be capable of detecting the leak rate or quantity specified for that method in Section 170.530(b) through (d) or 170.540 (a) and (f) with a probability of detection of 0.95 and a probability of false alarm of 0.05.

b) When a release detection method operated in accordance with the performance standards in Sections 170.530 and 170.540 indicates a release may have occurred, owners and operators must notify the Illinois Emergency Services and Disaster Agency in accordance with Sections 170.560 through 170.590.

c) Owners and operators of all UST systems must comply with the release detection requirements of Section 170.500 by December 22 of the year listed in Table A:

d) Any existing UST system that cannot apply a method of release detection that complies with the requirements of Section 170.500 must complete the temporary closure or removal procedures in Sections 170.670 by the date on which release detection is required for that UST system under subsection (c):

a) Owners or operators of new and existing UST systems shall provide a method, or combination of methods, of release detection that:

- 1) Can detect a release from the entire tank and any portion of the connected underground piping that routinely contains product;
- 2) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and
- 3) Meets the performance requirements in Sections 170.530 and

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170.540, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used on or after December 22, 1990 (except for methods permanently installed prior to that date) shall be capable of detecting the leak rate or quantity specified for that method in Section 170.530 and 170.540 with a probability of detection of 0.95 and a probability of false alarm of 0.05.

b) When a release detection method operated in accordance with the performance standards in Sections 170.530 and 170.540 indicates a release may have occurred, owners or operators shall notify the Illinois Emergency Management Agency in accordance with Sections 170.560, 170.590 and 170.600.

c) Owners or operators of all UST systems shall comply with the release detection requirements of this Section by December 22 of the year listed in Table A.

d) Any existing UST system that has not applied or installed a method of release detection that complies with the requirements of this Section shall perform the removal procedures in Section 170.670 on such UST system, upon issuance of an Administrative Order to do so by the Office of the State Fire Marshal.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.510 Release Detection Requirements for Petroleum UST Systems

Owners--and--operators--of--petroleum--UST--systems--must--provide--release--detection for--tanks--and--piping--as--follows:

a) Tanks--must--be--monitored--at--least--every--30--days--for--releases using--one--of--the--methods--listed--in--Section--170.530--(a)--through--(h) except--that:

1) UST--systems--that--meet--the--performance--standards--in--Sections 170.420--or--170.430--and--the--monthly--inventory--control requirements--in--Section--170.530(a)--or--(b),--may--use--tank--tightness testing--conducted--in--accordance--with--Section--170.530(c)--at least--every--five--years--until--December--22--1998--or--until--10--years after--the--tank--is--installed--or--upgraded--under--Section--170.430(b) whichever--is--later;

2) UST--systems--that--do--not--meet--the--performance--standards--in--Section 170.420--or--170.430--may--use--monthly--inventory--controls--conducted in--accordance--with--Section--170.530(a)--or--(b)--and--annual--tank tightness--testing--conducted--in--accordance--with--Section 170.530(c)--until--December--22--1998--when--the--tank--must--be upgraded--under--Section--170.430--or--removed--under--Section--170.630; or

3) Tanks--with--a--capacity--of--550--gallons--or--less--may--use--weekly--tank gauging--conducted--in--accordance--with--Section--170.530(b);

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b) Piping--that--is--underground--that--routinely--contains--regulated substances--must--be--monitored--for--releases--in--a--manner--that--meets--one of--the--following--requirements:

1) Pressurized--piping--that--is--underground--piping--that--conveys--regulated substances--under--pressure--must:

A) Be--equipped--with--an--automatic--line--leak--detector--conducted in--accordance--with--Section--170.540(a); and

B) Have--an--annual--line--tightness--test--conducted--in--accordance with--Section--170.540(b)--or--have--monthly--monitoring--conducted in--accordance--with--Section--170.540(c);

2) Section--piping--that--is--underground--piping--that--conveys--regulated substances--under--suction--must--either--have--a--line--tightness--test conducted--at--least--every--three--years--and--in--accordance--with Section--170.540(b)--or--use--a--monthly--monitoring--method--conducted--in accordance--with--Section--170.540(c);--No--release--detection--is required--for--suction--piping--that--is--designed--and--constructed--to meet--the--following--standards:

A) The--below--grade--piping--operates--at--less--than--atmospheric pressure;

B) The--below--grade--piping--is--sloped--so--that--the--contents--of--the pipe--will--drain--back--into--the--storage--tank--if--the--suction--is released;

C) Only--one--check--valve--is--included--in--each--suction--line;

D) The--check--valve--is--located--directly--below--and--as--close--as practical--to--the--suction--pump; and

E) A--method--is--provided--that--allows--compliance--with--subsections (b)(2)(B)--through--(D)--to--be--readily--determined.

Owners or operators of petroleum UST systems shall provide release detection for tanks and piping as follows:

a) Tanks. Tanks shall be monitored at least every 30 days for releases using one of the methods listed in Section 170.530 (d) through (i), except that:

1) UST systems that meet the performance standards in Section 170.420 or 170.430 and the monthly inventory control requirements in Section 170.530(a) or (b), shall use tank tightness testing (conducted in accordance with Section 170.530(c)) at least every five years until December 22, 1998, or until 10 years after the tank is installed or upgraded under Section 170.430(b), whichever is later;

2) UST systems that do not meet the performance standards in Section 170.420 or 170.430 may use monthly inventory control (conducted in accordance with Section 170.530(a) or (b)) and annual tank tightness testing (conducted in accordance with Section 170.530(c)) until December 22, 1998, when the tank shall be upgraded under Section 170.430 or removed or abandoned-in-place under Section 170.670; or

3) Tanks with a capacity of 550 gallons or less may use weekly tank

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gauging (conducted in accordance with Section 170.530(b)).
b) Piping. Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one of the following requirements:

1) Pressurized piping. Underground piping that conveys regulated substances under pressure shall:

- A) Be equipped with an automatic line leak detector conducted in accordance with Section 170.540(a); and
- B) Have an annual line tightness test conducted in accordance with Section 170.540(b) or have monthly monitoring conducted in accordance with Section 170.540(c).

2) Suction piping. Underground piping that conveys regulated substances under suction shall either have a line tightness test conducted at least every three years and in accordance with Section 170.540(b) or use a monthly monitoring method conduct in accordance with Section 170.540(c). No release detection is required for suction piping that is designed and constructed to meet the following standards:

- A) The below-grade piping operates at less than atmospheric pressure;
- B) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
- C) Only one check valve is included in each suction line;
- D) The check valve is located directly below and as close as practical to the suction pump; and
- E) A method is provided that allows compliance with subsections (B) through (D) above to be readily determined.

(Source: APR 01 1995 at 19 Ill. Reg. 5467, effective)

Section 170.520 Release Detection Requirements for Hazardous Substance UST Systems

Owners and operators of hazardous substance UST systems must provide release detection that meets the following requirements:

- a) Release detection at existing UST systems must meet the requirements for petroleum UST systems in Section 170.510. By December 22, 1998, all existing hazardous substance UST systems must meet the release detection requirements for new systems in subsection (b) below and comply with Section 170.530(g).
- b) Release detection at new hazardous substance UST systems shall provide release detection that meets the following requirements:
 - i) Secondary containment systems must be designed, constructed and installed to:
 - A) Contain regulated substances released from the tank system until they are detected and removed;
 - B) Prevent the release of regulated substances to the

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environment at any time during the operational life of the UST system; and

e) Be checked for evidence of a release at least every 30 days. Double-walled tanks must be designed, constructed and installed to:

A) Contain a release from any portion of the inner tank within the outer wall; and

B) Detect the failure of the inner wall.

3) External liners (including vaults) must be designed, constructed and installed to:

A) Contain 100 percent of the capacity of the largest tank within its boundary;

B) Prevent the interference of precipitation or ground water intrusion with the ability to contain or detect a release of regulated substances; and

C) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

4) Underground piping must be equipped with secondary containment that satisfies the requirements of subsection (b) (e.g., trench liners, jacking of double-walled pipe), in addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with Section 170.540(a).

5) Other methods of release detection may be used if owners and operators:

A) Demonstrate to the Office of the State Fire Marshal that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in Section 170.530(b) through (h) can detect a release of petroleum; the demonstration of any such method shall be by writing submitted to the Office;

B) Provide written information to the Office of the State Fire Marshal on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance and the characteristics of the UST system; and

C) Obtain written approval from the Office of the State Fire Marshal to use the alternate release detection method before the installation and operation of the new UST system.

Owners or operators of hazardous substance UST systems shall provide release detection that meets the following requirements:

- a) Release detection at existing UST systems shall meet the requirements for petroleum UST systems in Section 170.510. By December 22, 1998, all existing hazardous substance UST systems shall meet the release detection requirements for new systems in subsection (b) below and comply with Section 170.530(g).
- b) Release detection at new hazardous substance UST systems shall meet

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the following requirements:

- 1) Secondary containment systems shall be designed, constructed and installed to:
 - A) Contain regulated substances released from the tank system until they are detected and removed;
 - B) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and
 - C) Be checked for evidence of a release at least every 30 days.
- 2) Double-wall tanks shall be designed, constructed and installed to:
 - A) Contain a release from any portion of the inner tank within the outer wall; and
 - B) Detect the failure of the inner wall.
- 3) External liners (including vaults) shall be designed, constructed and installed to:
 - A) Contain 100 percent of the capacity of the largest tank within its boundary;
 - B) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and
 - C) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).
- 4) Underground piping shall be equipped with secondary containment that satisfies the requirements of subsections (1) through (3) above (e.g., trench liners, jacketing or double-walled pipe). In addition, underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with Section 170.540(a) and an interstitial monitor in accordance with 170.530(g).
- 5) Other methods of release detection may be used if owners or operators:
 - A) Demonstrate to the Office of the State Fire Marshal that an alternate method can detect a release of the stored substance as effectively as the method allowed in Section 170.530(g); written approval is required from the Office to use the alternate release detection method before the installation and operation of the new UST system; and
 - B) Provide written information to the Office of the State Fire Marshal on effective corrective action technologies, health risks and chemical and physical properties of the stored substance, and the characteristics of the UST site.

(Source: Amended at 19 Ill. Reg. 6467, effective APR 01 1995)

Section 170.530 Methods of Release Detection for Tanks

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- Each method of release detection for tanks used to meet the requirements of Section 170.510 must be conducted in accordance with the following:
- a) Inventory control: Product inventory control for another test of equivalent performance must be conducted monthly to detect a release of at least 10 percent of flow through plus 130 gallons on a monthly basis in the following manner:
 - 1) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day.
 - 2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch.
 - 3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.
 - 4) Bellwires are made through a drop tube that extends to within one foot of the tank bottom.
 - 5) Product dispensing is metered and recorded pursuant to Section 8 of the Weights and Measures Act (Ill. Rev. Stat. 1987, Ch. 147, par. 1087) and
 - 6) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month. Practices described in the API Recommended Practice 16217 incorporated by reference in Section 170.1107 may be used where applicable as guidance in meeting the requirements of this subsection.
 - b) Manual tank gauging: Manual tank gauging must meet the following requirements:
 - 1) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank.
 - 2) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period.
 - 3) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch.
 - 4) A leak is suspected and subject to the requirements of 49 CFR 200 Subpart B incorporated by reference in Section 170.1107 if the variation between beginning and ending measurements exceeds the weekly or monthly standards in Table B.
 - 5) Only tanks of 550 gallons or less net test capacity may use this as the sole method of release detection. Tanks of 551 to 2700 gallons may use the method in place of manual inventory control in subsection (a). Tanks of greater than 2700 gallons nominal capacity may not use this method to meet the requirements of subsection (b).
 - c) Tank tightness testing: Tank tightness testing for another test of equivalent performance must be capable of detection a 0.1 gallon per

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hour--leak--rate--from--any--portion--of--the--tank--that--routinely--contains
product--while--accounting--for--the--effects--of--thermal--expansion--or
contraction--of--the--product--vapor--pocket--tank--deformation--or
evaporation--or--condensation--and--the--location--of--the--water--table.
Automatic--tank--gauging--Equipment--for--automatic--tank--gauging--that
tests--for--the--loss--of--product--and--conducts--inventory--control--must--meet
the--following--requirements:

1) The--hour--leak--rate--from--any--portion--of--the--tank--that--routinely
contains--product--and
2) Inventory--control--for--another--test--of--equivalent--performance--is
conducted--in--accordance--with--the--requirements--of--subsection--(a).
Vapor--monitoring--Testing--or--monitoring--for--vapors--within--the--soil
gas--of--the--excavation--zone--must--meet--the--following--requirements:

1) The--water--table--used--as--a--backfill--are--sufficiently--porous--(e.g.,
gravel--sand--or--crushed--rock)--to--readily--allow--diffusion--of--vapors
from--releases--into--the--excavation--area;

2) The--soil--gas--regulator--substance--or--tracer--compound--placed--in
the--tank--system--is--sufficiently--volatile--(e.g.,
gasoline)--to
result--in--a--vapor--level--that--is--detectable--by--the--monitoring
device--located--in--the--excavation--zone--in--the--event--of--a--release
from--the--tank;

3) The--measurement--of--vapors--by--the--monitoring--device--is--not
rendered--ineffective--by--the--ground--water--table--soil--moisture
or--other--known--interferences--so--that--a--release--could--go
undetected--for--more--than--30--days;

4) The--level--of--background--contamination--in--the--excavation--zone--with
no--interference--with--the--method--used--to--detect--releases--from--the
tank;

5) The--vapor--monitors--are--designed--and--operated--to--detect--any
significant--increase--in--concentration--above--background--of--the
regulated--substance--stored--in--the--tank--system--a--component--or
components--of--that--substance--or--a--tracer--compound--placed--in--the
tank--system;

6) In--the--USP--excavation--zone--the--site--is--assessed--to--ensure
compliance--with--the--requirements--in--subsections--(c) through
(f)--and--to--establish--the--number--and--positioning--of--monitoring
wells--that--with--detect--releases--within--the--excavation--zone--from
any--portion--of--the--tank--that--routinely--contains--product--and

7) Monitoring--wells--are--clearly--marked--and--secured--to--avoid
unauthorized--access--and--tampering;

8) Ground--water--monitoring--is--designed--or--monitoring--for--liquid--on--the
ground--water--must--meet--the--following--requirements:

1) The--regulated--substance--stored--in--the--excavation--zone--has--a
specific--gravity--of--less--than--one;
2) Ground--water--is--never--more--than--20--feet--from--the--ground--surface
and--the--hydraulic--conductivity--of--the--soil--is--between--the--USP
system--and--the--monitoring--wells--or--releases--is--not--less--than--0.01

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cm/sec--(e.g.,
the--soil--should--consist--of--gravel--or--coarse--to
medium--sandy--coarse--silt--or--other--permeable--material);
the--soil--is--not--perforated--portion--of--the--monitoring--well--causing
must--be--designed--to--prevent--migration--of--natural--soils--or--filler
pack--into--the--well--and--to--allow--entry--of--regulated--substance--on
the--water--table--into--the--well--under--both--high--and--low
ground--water--conditions;

4) Monitoring--wells--shall--be--sealed--from--the--ground--surface--to--the
top--of--the--filter--pack;

5) Monitoring--wells--or--devices--intercept--the--excavation--zone--or--are
as--close--to--the--soil--technically--feasible;

6) The--continuous--monitoring--devices--or--manual--methods--used--can
detect--the--presence--of--at--least--one--eighth--of--an--inch--of--free
product--on--top--of--the--ground--water--in--the--monitoring--well;

7) Within--and--immediately--below--the--USP--system--excavation--zone--the
site--is--assessed--to--ensure--compliance--with--the--requirements--in
subsections--(c) through--(f)--and--to--establish--the--number--and
positioning--of--monitoring--wells--or--devices--that--will--detect
releases--from--any--portion--of--the--tank--that--routinely--contains
product--and

8) Monitoring--wells--are--clearly--marked--and--secured--to--avoid
unauthorized--access--and--tampering;

9) Interstitial--monitoring--is--interstitial--monitoring--between--the--USP
system--and--a--secondary--barrier--immediately--around--or--beneath--it--may--be
used--but--only--if--the--system--is--designed--constructed--and--installed--to
detect--a--leak--from--any--portion--of--the--tank--that--routinely--contains
product--and--also--meets--one--of--the--following--requirements:

1) Pot--double--walled--USP--systems--the--sampling--or--testing--method--can
detect--a--release--through--the--inner--wall--in--any--portion--of--the
tank--that--routinely--contains--product--the--provision--specified--in
SPI--is--not--standard--for--Batt--Wall--Underground--Storage--Tank--
incorporated--by--reference--in--Section--230.419--may--be--used--as
guidance--for--aspects--of--the--design--and--construction--of
underground--steel--double--walled--tanks;

2) Pot--USP--systems--with--a--secondary--barrier--within--the--excavation
zone--the--sampling--or--testing--method--used--can--detect--a--release
between--the--USP--system--and--the--secondary--barrier;

3) At
the--secondary--barrier--is--constructed--material--that--is
sufficiently--different--and--impenetrable--from--the--excavation--zone--to
prevent--the--leak--of--the--regulated--substance--into--the--excavation--zone
directly--or--indirectly--to--the--monitoring--point--and--permit--its
detection;

4) The--barrier--is--compatible--with--the--regulated--substance
stored--in--the--excavation--zone--from--the--USP--system--that--it--does--not
cause--a--degradation--of--the--barrier--allowing--a--release--to--pass
through--undetected;

5) Pot--double--walled--USP--systems--the--secondary--barrier--must

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- be--installed--so-that-it-does-not-interfere-with-the-proper operation-of-the-cathodic-protection-system;
- B) The ground-water, soil-moisture or rainfall will not render the--testing-or--sampling-method-used-inoperative-so-that-a release-could-go-undetected-for-more-than-30-days;
- B) The site is assessed-to-ensure-that-the-secondary-barrier-is always-above-the-ground-water-and-not--in-a-25-year-flood plain--unless-the-barrier-and-monitoring-designs-are-for-use under-such-conditions--and
- B) Monitoring--wells--are--clearly--marked-and-secured-to-avoid unauthorized-access-and-tampering;
- 3) For tanks with an internally-fitted liner, an automated device can--detect--a-release-between-the-inner-wall-of-the-tank-and-the liner--and-the-liner-is-compatible-with-the-substance-stored;
- h) Other methods--any-other-type--of--release-detection-method--or combination-of-methods--can-be-used-if:
- i) It can detect a 0.2-gallon-per-hour-leak-rate-or-a-release-of-150 gallons--within-a-month-with-a-probability-of-detection-of-0.95 and-a-probability-of-false-alarm-of-0.05--or
- 2) The Office-of-the-State-Fire-Marshall-may-approve--another-method if--the-owner--and--operator--can-demonstrate-that-the-method-can detect-a-release-as-effectively-as-any-of-the-methods-allowed--in subsections-(c)--through-(h)--the-demonstration-of-any-such-method shall-be-by--writing--submitted--to--the--Office--in-comparing methods--the-Office-shall-consider-the-size-of-release--that--the method-can-detect--and-the-frequency-and-reliability-with-which-it can-be-detected--if--the-method-is--approved--the-owner-and operator-must-comply-with-any-conditions-imposed-by-the-Office-on its-use--to-ensure--the-protection-of-human--health--and--the environment--before--the-utilization-of-the-method--the-Office shall-issue-written-approval.

Each method of release detection for tanks used to meet the requirements of Section 170.510 shall be conducted in accordance with the following:

- a) Monthly inventory control. Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent of the flow-through plus 130 gallons on a monthly basis in the following manner:
- 1) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;
- 2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- 3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- 4) Deliveries are made through a drop tube that extends to within

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- one foot of the tank bottom;
- 5) Product dispensing is metered and recorded pursuant to Section 8 of the Weights and Measures Act [225 ILCS 470/8];
- 6) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (a)); and
- 7) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.
- b) Manual tank gauging. Only tanks of 550 gallons or less nominal capacity may use this subsection as the sole method of release detection. Tanks of 551 to 2,000 gallons may use this method in place of monthly inventory control in subsection (a) of this Section. Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this subsection (b). Manual tank gauging shall meet the following requirements:
- 1) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;
- 2) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
- 3) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- 4) A leak is suspected and subject to the requirements of Sections 170.560 through 170.610, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in Table B;
- 5) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (b)); and
- 6) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.
- c) Precision tank tightness testing, as approved by the Office of the State Fire Marshal. Tank tightness testing (or another test of equivalent performance) shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation,

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hour-leak-rate--from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product vapor pockets--tank deformation, evaporation or condensation and the location of the water table. Automatic tank gauging--Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

1) The automatic product level monitor test on detect-a 0.2-gallon per-hour leak rate from any portion of the tank that routinely contains product; and

2) Inventory control for another test of equivalent performance is conducted in accordance with the requirements of subsection (a) of Vapors monitoring--testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

1) The materials used as a backfill are sufficiently porous to give gravel-sand crushed rock to readily allow diffusion of vapors from releases into the excavation area;

2) The stored evaporated substance or a tracer compound placed in the tank system is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

3) The measurement of vapors by the monitoring device is not redeemed inoperative by the ground water table, rainfall, soil moisture or other known interferences so that a release could go undetected for more than 30 days;

4) The level of background contamination in the excavation zone with not interfere with the method used to detect releases from the tank;

5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system; a component or components of that substance or a tracer compound placed in the tank system;

6) In the UGS excavation zone, the site is assessed to ensure compliance with the requirements in subsection (c) through (f) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and

7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

Ground water monitoring--Testing or monitoring for liquids on the ground water must meet the following requirements:

1) The regulated substance stored in the water and has a specific gravity of less than one.

2) Ground water is no more than 30 feet from the ground surface and the hydraulic conductivity of the soil is between the UGS system and the monitoring wells or devices is not less than 0.01

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cm/sec (e.g., the soil should consist of gravel or coarse to medium sand, coarse silt or other permeable material);

3) The sloped or perforated portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low ground water conditions;

4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

6) The continuous monitoring devices or manual methods used can detect the presence of at least one eighth of an inch of free product on top of the ground water in the monitoring well;

7) Within and immediately below the UGS system excavation zone, the site is assessed to insure compliance with the requirements in subsection (c) through (f) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

8) Monitoring wells are clearly marked and sealed to avoid unauthorized access and tampering.

Interest in monitoring--Interest in monitoring between the UGS system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

1) For double-walled UGS system, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product; the provision specified in SPI--Standard for Bulk-Wall Underground Storage Tank incorporated by reference in Section 17.04 may be used as guidance for aspects of the design and construction of underground steel double-walled tanks;

2) For UGS systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UGS system and the secondary barrier.

At the secondary barrier around or beneath the UGS system consists of an actively constructed material that is sufficiently intact and impermeable to not allow releases of 0.00001 cm/sec for the regulated substance stored in the excavation zone to the monitoring points and penetrates detector.

3) The barrier is compatible with the regulated substance stored in it or that releases from the UGS system will not cause a deterioration of the barrier allowing a release to pass through undetected.

4) For methods that protect tanks, the secondary barrier must

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be--installed--so--that--it--does--not--interfere--with--the--proper operation--of--the--cathodic--protection--system;

B) The ground-water, soil-moisture or rainfall will not--render the--testing--or--sampling--method--used--inoperative--so--that--a release--could--go--undetected--for--more--than--30--days;

B) The site is assessed to ensure that the secondary barrier is always above the ground-water and not--in--a--35-year--flood plain--unless the barrier and monitoring designs are for use under such conditions; and

F) Monitoring--walls--are--clearly--marked--and--secured--to--avoid unauthorized access and tampering;

3) For tanks with an internally fitted liner--an--automated--device can--detect--a--release--between--the--inner--wall--of--the--tank--and--the liner--and--the--liner--is--compatible--with--the--substance--stored;

h) Other methods--Any other type--of--release--detection--method--or combination of methods--can be used if:

1) It can detect a 0.2-gallon-per-hour leak rate or a release of 150 gallons--within--a--month--with--a--probability--of--detection--of--0.95 and a probability of false alarm of 0.05; or

2) The Office of the State Fire Marshal may approve--another--method if--the--owner--and--operator--can--demonstrate--that--the--method--can detect--a--release--as--effectively--as--any--of--the--methods--allowed--in subsections (c) through (f); the demonstration of any such method shall be by writing submitted--to--the--Office--in--comparing methods; the Office shall consider the size of release--that--the method can detect--and--the--frequency--and--reliability--with--which--it can be detected;--if--the--method--is--approved--the--owner--and operator must comply with any conditions imposed by the Office on its use--to--ensure--the--protection--of--human--health--and--the environment;--Before--the--utilization--of--the--method--the--Office shall issue written approval;

Each method of release detection for tanks used to meet the requirements of Section 170.510 shall be conducted in accordance with the following:

a) Monthly inventory control. Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent of the flow-through plus 130 gallons on a monthly basis in the following manner:

1) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;

2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

4) Deliveries are made through a drop tube that extends to within

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one foot of the tank bottom;

5) Product dispensing is metered and recorded pursuant to Section 8 of the Weights and Measures Act [225 ILCS 470/8];

6) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (a)); and

7) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.

b) Manual tank gauging. Only tanks of 550 gallons or less nominal capacity may use this subsection as the sole method of release detection. Tanks of 551 to 2,000 gallons may use this method in place of monthly inventory control in subsection (a) of this Section. Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this subsection (b). Manual tank gauging shall meet the following requirements:

1) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;

2) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

3) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

4) A leak is suspected and subject to the requirements of Sections 170.560 through 170.610, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in Table B;

Table B:

The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (b)); and

6) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.

c) Precision tank tightness testing, as approved by the Office of the State Fire Marshal. Tank tightness testing (or another test of equivalent performance) shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation,

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- be--installed--so-that-it-does-not-interfere-with-the-proper operation-of-the-cathodic-protection-system?
- B) the-ground-water-soil-moisture-or-rainfall-will-not-render the--testing-or--sampling-method-used-inoperative-so-that-a release-could-go-undetected-for-more-than-30-days?
- E) the-site-is-assessed-to-ensure-that-the-secondary-barrier-is always-above-the-ground-water-and-not-in-a-25-year-flood plain-unless-the-barrier-and-monitoring-designs-are-for-use under-such-conditions; and
- F) Monitoring--wells--are--clearly--marked--and--secured--to--avoid unauthorized-access-and-tampering.
- 3) For-tanks-with-an-internally-fitted-liner--an--automated--device can--detect--a-release-between-the-inner-wall-of-the-tank-and-the liner--and-the-liner-is-compatible-with-the-substance-stored.
- h) Other-methods--any-other-type-of-release--detection-method--or combination-of-methods--can-be-used-if:
- 1) it-can-detect-a-0.2-gallon-per-hour-leak-rate-or-a-release-of-150 gallons--within--a--month--with-a-probability-of-detection-of-0.95 and-a-probability-of-false-alarm-of-0.05; or
- 2) the-Office-of-the-State-Fire-Marshall-may-approve--another-method if--the-owner--and--operator--can-demonstrate-that-the-method-can detect-a-release-as-effectively-as-any-of-the-methods-allowed--in subsections-(e)--through-(h);-the-demonstration-of-any-such-method shall-be-by-writing--submitted--to--the--Office--in-comparing methods--the-Office-shall-consider-the-size-of-release--that--the method-can-detect--and-the-frequency-and-reliability-with-which-it can-be-detected--if--the-method-is--approved--by--the-owner--and operator--must-comply-with-any-conditions-imposed-by-the-Office-on its-use--to-ensure--the--protection--of--human--health--and--the environment--before--the--utilization--of--the-method--the-Office shall-issue-written-approval.

Each method of release detection for tanks used to meet the requirements of Section 170.510 shall be conducted in accordance with the following:

- a) Monthly inventory control. Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent of the flow-through plus 130 gallons on a monthly basis in the following manner:
- 1) Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day;
- 2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- 3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- 4) Deliveries are made through a drop tube that extends to within

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- one foot of the tank bottom.
- 5) Product dispensing is metered and recorded pursuant to Section 8 of the Weights and Measures Act (225 ILCS 470/8);
- 6) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (a)); and
- 7) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.
- b) Manual tank gauging. Only tanks of 550 gallons or less nominal capacity may use this subsection as the sole method of release detection. Tanks of 551 to 2,000 gallons may use this method in place of monthly inventory control in subsection (a) of this Section. Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this subsection (b). Manual tank gauging shall meet the following requirements:
- 1) Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;
- 2) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
- 3) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- 4) A leak is suspected and subject to the requirements of Sections 170.560 through 170.610, if the variation between beginning and ending measurements exceeds the weekly or monthly standards in Table B;
- 5) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (b)); and
- 6) To the extent the above measurements or recordkeeping are the responsibility of the UST owner, the owner or whoever performs those activities on the owner's behalf, shall be knowledgeable in such performance.
- c) Precision tank tightness testing, as approved by the Office of the State Fire Marshal. Tank tightness testing (or another test of equivalent performance) shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation,

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evaporation or condensation, and the location of the water table. There are four types of precision testing:

- 1) 100 percent volumetric overflow;
- 2) Volumetric underfill with an approved ullage test of negative pressure or inert gas as approved by the Office of the State Fire Marshal;

- 3) A negative pressure; or

- 4) Other approved methods, in accordance with subsection (i) below.

- d) Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet the following requirements:

- 1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and
- 2) Monthly inventory control (or another test of equivalent performance) is conducted in accordance with the requirements of subsection (a) above. Automatic tank gauging approved for precision testing will satisfy this requirement.

- e) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone shall meet the following requirements:

- 1) The materials used as a backfill are sufficiently porous (e.g., gravel, sand or crushed rock) to readily allow diffusion of vapor from releases into the excavation area;

- 2) The stored regulated substance or a tracer compound placed in the tank system is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

- 3) The measurement of vapors by the monitoring device is not rendered inoperative by groundwater, rainfall, soil moisture or other known interferences so that a release could go undetected for more than 30 days;

- 4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

- 5) The vapor monitors are designed and operated to detect any significant increase in concentration above the background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system; vapor monitor sensors must be permanently installed in the vapor monitor wells;

- 6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subsections (1) through (4) above and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;

- 7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

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- 8) Vapor monitoring wells shall be of sufficient design to allow vapors to be detected from any portion of the tank being monitored and shall be a minimum of four inches in diameter or as approved by the Office of the State Fire Marshal on the applicable permit; and
- 9) An adequate number of vapor monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of such wells is subject to approval of the Office of the State Fire Marshal on the applicable permit.

- f) Groundwater monitoring. Testing or monitoring for liquids on the groundwater shall meet the following requirements:

- 1) The regulated substance stored is immiscible in water and has a specific gravity of less than one;

- 2) Groundwater is never more than 20 feet from the ground surface, the hydraulic conductivity of the soil between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials), and groundwater shall be present in the groundwater monitoring wells at all times;

- 3) The slotted or perforated portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

- 4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

- 5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

- 6) The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;

- 7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subsections (1) through (5) above and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product;

- 8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

- 9) The minimum diameter of groundwater monitoring wells shall be six inches or as approved by the Office of the State Fire Marshal on the applicable permit; and

- 10) An adequate number of groundwater monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of such wells is subject to approval of the Office of the State Fire Marshal on the applicable permit.

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- that only trained staff will be utilized for data collection. Each tank monitored by SIR shall be identified to the Office in writing within 30 days of the commencement of such monitoring, specifying tank size, product stored, facility location and any other pertinent identification information necessary.
- 2) SIR methods may only be used in conjunction with precision tank tightness testing conducted either annually for tanks that are not upgraded or every five years for tanks that have been upgraded with corrosion protection and spill/overflow prevention devices.
- 3) A precision tank tightness test, as approved by the Office of the State Fire Marshal, shall be mandatory, if two successive monthly data analyses indicate a possible release or are inconclusive; and
- 4) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month (practices described in API Recommended Practice 1621, incorporated by reference in Section 170.410, may be used, where applicable, as guidance in meeting the requirements of this subsection (h)).

- i) Other methods. Any other type of release detection method or combination of methods, approved by the Office of the State Fire Marshal, may be used if:
- The owner or operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections (c) through (h) of this Section. Demonstration of any such method shall be in writing submitted to the Office of the State Fire Marshal. In comparing methods, the Office shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner or operator shall comply with any conditions imposed by the Office on its use to ensure the protection of human health or the environment. Before the utilization of the method, the Office shall issue written approval.
- j) One copy of each independent third-party evaluation and its protocol, for the release detection methods in subsections (c), (d), (e), (d), (h) and (i) above, shall be submitted to the Office of the State Fire Marshal. Any deviation from the third-party evaluation shall be resubmitted for approval.
- k) Only one approved method of primary release detection is required for each tank; although, multiple methods are acceptable.
- l) No method of release detection shall be used, unless that method has been approved by the Office of the State Fire Marshal.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

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- g) Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and, also, meets one of the following requirements:
- 1) For double-wall UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product; the provisions specified in STI, "Standard for Dual Wall Underground Storage Tank," incorporated by reference in Section 170.410, may be used as guidance for aspects of the design and construction of underground steel double-wall tanks.
- 2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier.
- A) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (not in excess of 0.000001 cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;
- B) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;
- C) For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;
- D) The groundwater, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;
- E) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain unless the barrier and monitoring designs are for use under such conditions;
- F) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and
- G) An adequate number of monitoring wells shall be provided to ensure that a release can be detected from any portion of the tank. Adequacy of the number of such wells is subject to the approval of the Office of the State Fire Marshal.
- 3) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
- h) Statistical Inventory Reconciliation (SIR).
- 1) The company that uses this method shall provide the Office of the State Fire Marshal a written affirmation that their data collection staff is trained in the data gathering procedures and

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Each method of release detection for piping used to meet requirements of Section 170.510 ~~must~~ shall be conducted in accordance with the following:

- a) Automatic line leak detectors. Methods which alert the operator to the presence of a leak by ~~restriction~~ restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector ~~must~~ shall be conducted in accordance with the manufacturer's requirements. One copy of an independent third-party evaluation and its protocol for each piping release detection method shall be submitted to the Office of the State Fire Marshal. Any deviation from the third-party evaluation shall be resubmitted for approval.
- b) Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure for 30 minutes. Use of an inert gas to pressurize piping, as approved by the Office of the State Fire Marshal, is also acceptable. Suction piping shall be tested under a positive pressure of approximately seven PSI for 30 minutes.
- c) Applicable tank methods. Any of the methods in Section 170.530(a) through (i) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances, as approved by the Office of the State Fire Marshal.

(Source: Amended at 19 Ill. Reg. 5467.1, effective APR 01 1995.)

Section 170.541 Installer, Repairer, Reliner or Remover of USTs and Obtaining Permits

Any person who is an installer, repairer, reliner or remover of underground storage tanks is a contractor. However, in order for a contractor to install, repair, reliner or remove any UST, the contractor is required to be licensed and obtain a permit for that activity, in compliance with the following:

- a) Pay \$100 per site to the Office of the State Fire Marshal for a permit to install, repair, reliner or remove underground storage tanks.
 - 1) A separate fee is required for each type of activity.
 - 2) This fee is to be paid by check or money order made payable to "Office of the State Fire Marshal" and is to be from the installer, repairer, reliner or remover.
- 3) Only contractors licensed and certified in accordance with Subpart E (or their respective employees, who do not have to be licensed and certified), and not barred pursuant to Subpart D, may obtain permits. Contractors are required to be licensed and certified in the UST activity for which they are applying.
- 4) Only contractors, their employees or subcontractors may perform the permitted UST activity in accordance with Subpart E.

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- 5) Only the most current permit application for the activity is to be submitted.
- 6) Insufficient information submitted with the permit application or an illegible permit application submission is cause for return or denial.
- 7) Permits expire six months from the date they are issued, except that the applicant may apply in writing and be entitled to one six-month extension of the permit during the time the permit is valid, with no additional fee required.
- 8) Permit applications denied or rejected the second time will require a new application submission fee.
- 9) Permit applications and issued permits are not transferable.
- 10) Permit applications and issued permits may only be submitted and amended by contractors licensed and certified in the area of UST activity for which they are applying.
- 11) Amended permits. Granted permits may be amended only once without a new application fee; except, each change that requires a new contractor, a new site plan or another engineering review to determine acceptability will require a new application submission and fee.
- 12) A person who is the owner of a UST for which a permit is obtained shall be listed on the permit application as the owner.
- 13) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement, the City has the authority to modify this subsection (a) to issue the permits and collect the fees for its own use, regarding UST activities within the jurisdiction of the City.
- b) No permit may be issued when a current owner is listed on a permit application who owes fees pursuant to Section 170.441 or 170.442 until any such fee is paid in full.
- c) No UST activity requiring a permit may proceed without a granted permit in the possession of the contractor or representative of the contractor at the UST site, except pursuant to Section 170.481, and the permit shall be available upon request of an Office of the State Fire Marshal representative. Performance by a contractor of a UST activity in violation of this Section may result in the suspension or revocation of the license of that contractor to perform any UST activity. This does not preclude suspension or revocation for a violation of any other applicable Section.
- d) No UST owners or operators may perform any UST activity on their UST, unless the owner complies with the licensing and certification requirements of Subpart E.
- e) UST activity performed that is not in compliance with the conditions of a permit issued to a contractor is cause for permit revocation, or suspension or revocation of the license of that contractor to perform any UST activity. This does not preclude suspension or revocation for a violation of any other applicable Section.

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- f) For purposes of this Section, the term "installer" includes "replacer" and "install" includes "replace"; the term "repairer" includes a person who upgrades and "repair" includes "upgrade"; and the term "remover" includes a person who "abandons-in-place" and "remove" includes "abandon-in-place" a UST.
- g) A permit is required to remove, abandon-in-place, upgrade, repair, reline, and install all UST tanks and piping. Primary leak detection systems, corrosion protection, spill containment, overfill prevention and new dispenser islands also require permits.
- h) No permit is required for routine maintenance such as replacement of existing dispensers, provided no new piping is installed. No permit is required for existing equipment located in existing containment sumps, not in direct contact with the earth or covered with backfill, such as submersible pump, a third-party approved line leak detector, shear valve, swing joint or flex connector. Existing automatic tank gauge probes, if defective, may be replaced with those of identical manufacture and model of existing equipment without a permit. Tightening loose fittings does not require a permit. Excavations needed to investigate releases do not require permits provided there is no installation or removal of UST equipment.

(Source: Added at 19 Ill. Reg. 54671, effective APR 01 1995)

Section 170.542 Site Plans

- a) Site plans made to scale shall be submitted in triplicate, by the contractor listed on the permit application, to the Office of the State Fire Marshal and are subject to approval by the Office before any new construction, addition or remodeling which alters building size, dispenser locations or locations or sizes of vehicle service area or storage tanks. Removals, relines and upgrades, which involve replacing equipment with that of identical manufacture and model, do not require the submission of site plans; however, permits are required in accordance with Section 170.541. Site plans shall be legible and sizes shall be 8 1/2" x 11", 8 1/2" x 14" or 11" x 17" only; blueprints are not acceptable as site plans. Separate permit application forms are provided for installation, removal, upgrade or repair, relining or abandonment-in-place. Drawings shall carry the name of the contractor proposing the installation, the location with reference to city, village or town, and shall show the following:

- 1) The plot to be utilized and its immediate surroundings on all sides. All property lines are to be designated and adjacent streets and highways shall be named.
- 2) The complete installation as proposed, including tanks and their capacities, class of liquids to be stored, pumps, buildings, drives and all equipment.
- 3) Clearance from tanks to property lines as required by Section

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- 170.422.
- 4) Type of construction of service station building or buildings, clearly showing that there will be no new basement, cellar or excavation under any portion.
- 5) Location of basements, cellars or pits of other buildings on the property or on adjacent property and location of tanks with reference thereto, as required by Section 170.422. If a building has no basement, cellar or pit, a notation to that effect should be made in the proper place.
- 6) Location of sewers, manholes, catch basins, cesspools, septic tanks, wells or cisterns (whether on the property, adjacent property or in adjoining streets, highways or alleys), and location of tanks with reference thereto, as required by Section 170.422. If there is no sewer, manhole or catch basin in a street or alley or no sewer, cesspool, septic tank, well or cistern on a property, a notation to that effect should be made in the proper place.
- 7) Location of vent pipe outlets as required by Section 170.424(d) and location of fill pipes as required by Section 170.425.
- 8) Ventilation of greasing pits as required by Section 170.130, if greasing pit is located within a building or an enclosure.
- 9) Drawings shall be accompanied by an application for approval made out in triplicate on forms furnished by the Office of the State Fire Marshal.
- 10) Plans will be approved if they meet the requirements contained in this Subpart, and a written granted permit will be issued when the conditions are met.

- b) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement, the City has the authority to modify this Section to change any reference to "Office of the State Fire Marshal," or variation thereof, to the appropriate City authority.

(Source: Added at 19 Ill. Reg. 54671, effective APR 01 1995)

Section 170.543 Notification and Establishment of a Date Certain for Underground Storage Tank Activity

This Section applies to underground storage tank activity, requiring a permit, consisting of removal, abandonment-in-place, installation, upgrade, repair or reline (but not tank tightness or cathodic protection testing).

- a) Notification:
Notice of UST activity shall be given to the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety, in writing (the permit application, as specified in Section 170.541, shall constitute such writing) by the contractor. Notice of removal of a UST shall be

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given to the Office at least 30 days prior thereto, unless such action is in response to a known or suspected release, which has been assigned an incident number by Illinois Emergency Management Agency. In the event of a known or suspected release, the Office of the State Fire Marshal may waive the 30-day waiting period; however, a permit is still required.

b) Establishment of a Date Certain:

1) The contractor the permit was issued to or an employee of that contractor (this does not include a subcontractor) shall establish a date certain to perform the UST activity by contacting the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety, by telephone between 8:30 a.m. and 12:00 p.m., at which time a mutually agreed upon date and time for the UST activity shall be scheduled.

2) No permitted UST activity or portion of a UST activity is to be performed without an Office of the State Fire Marshal Storage Tank Safety Specialist (STSS) present, as deemed necessary by the Office (see appropriate Appendix).

c) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such an agreement and to the extent the City is authorized to supervise the above-referenced activities, the City is authorized to substitute references in this Section to the Office of the State Fire Marshal or its agents or employees with comparable terminology.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.544 Tester of Underground Storage Tanks and Cathodic Protection

a) Any person who is a tester of underground storage tanks or its piping or cathodic protection for another, except a lessor for his or her lessee, is a contractor. Testers shall be licensed and certified in accordance with Subpart E, except they shall not be licensed if they are so barred pursuant to Subpart D. The results of such tests are to be reported to the Office within one month from the date of each such test on a form prescribed by the Office, except when a tank fails a test and is suspected of leaking, the result shall be submitted within three working days of the test.

b) Tank tightness methods shall be evaluated by an independent third-party and are subject to approval by the Office of the State Fire Marshal.

c) Tank tightness testers shall be trained by the manufacturer of the testing equipment relied upon to ensure proficiency in the tightness testing method.

d) For purposes of this Section, "license" (or any comparable variation of the term) is synonymous with "registration" (or any comparable

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variation of the term).

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.545 USTs Inside or Under Buildings

a) The floor level, under which a UST is located, shall be above-grade so as to prevent the flow of liquids or vapors into buildings, and the floors shall be of concrete or other fire resistant construction.

b) No basement or excavation shall be constructed under any service station building. Existing basements under service stations shall be eliminated or provided with mechanical ventilation, and only non-sparking explosion proof motors and compressors shall be permitted in existing basements.

c) No buildings, commencing April 1, 1995, shall be constructed over UST systems, in operation or out of operation (for any period of time); unless, they are exempted from removal pursuant to Section 170.670(a)(4) or (5). Any such UST system over which a building is constructed shall not subsequently be eligible for an abandonment-in-place permit, as issued pursuant to Section 170.670(d).

d) No USTs or dispensers, containing motor fuel, shall be installed inside buildings, except as authorized pursuant to Section 170.426(k).

e) Underground product piping connecting USTs or dispensers, containing motor fuel, shall not be routed under buildings whenever feasible, except used oil UST piping with an inside fill may be permitted subject to approval by the Office of the State Fire Marshal on the applicable permit.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.546 UST Restrictions at Service Stations

a) Service station storage shall be underground, and the capacity of any single underground storage tank for petroleum shall not exceed 20,000 gallons.

b) The total aggregate storage at service stations of petroleum shall be limited by the ability to achieve and maintain clearances to basements, sewers, property lines and special classes of property, in accordance with Sections 170.420 and 170.422, and clearance between tanks is a minimum of 12 inches.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.550 Release Detection Recordkeeping

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All UST system owners and operators must shall maintain records in accordance with Section 170.490, demonstration demonstrating compliance with all applicable requirements of Sections of this Subpart 170.510--through 170.550. These records must shall include the following:

- a) All written performance claims pertaining to any release detection system used and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must shall be maintained for five years from the date of installation;
- b) The results of any sampling, testing or monitoring must shall be maintained for at least one year, except that the results of tank tightness testing conducted in accordance with Section 170.530(c) must shall be retained until the next test is conducted; and
- c) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on-site must shall be maintained for at least one year after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must shall be retained for five years from the date of installation.

(Source: Amended at 19 Ill. Reg. 5467.1, effective APR 01 1995)

Section 170.560 Reporting of Suspected Releases

Owners and operators of UST systems must shall report to the Illinois Emergency Services--and--Disaster--Agency Illinois Emergency Management Agency within 24 hours, and follow the procedures in Section 170.580 for any of the following conditions:

- a) The discovery by owners, operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and or utility lines, and or nearby surface water);
- b) Unusual operating conditions observed by owners or operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking and is immediately repaired or replaced; and or
- c) Monitoring results from a release detection method required under Sections 170.510 and or 170.520 that indicate a release may have occurred, unless:
 - 1) The monitoring device is found to be defective and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or
 - 2) In the case of monthly inventory control, a second month of data does not confirm the initial result; however, the 24-hour reporting requirement remains in effect.

(Source: Amended at 19 Ill. Reg. 5467.1, effective

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Section 170.570 Investigation Due to Off-Site Impacts

When required in writing by the Office of the State Fire Marshal, owners and operators of UST systems must shall follow the procedures in Section 170.580 to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and or utility lines, and or nearby surface and or drinking waters) that have been observed by the Office of the State Fire Marshal or brought to its attention by another party.

(Source: Amended at 19 Ill. Reg. 5467.1, effective APR 01 1995)

Section 170.580 Release Investigation and Confirmation Steps

Unless corrective action is initiated in accordance with 40 CFR 2807-Subpart-P7 incorporated by reference in Section 170.4107, owners and operators must investigate and confirm all suspected releases of regulated substances requiring reporting under Section 170.560 within seven days, using the following procedures:

- a) System test--Owners and operators must conduct tests according to the requirements for tightness testing in Sections 170.530(c) and 170.540(b) that determine whether a leak exists in that portion of the tank that routinely contains product, or the attached delivery piping, or both:
 - 1) Owners and operators must repair or replace or upgrade the UST system and begin corrective action in accordance with 40 CFR 2807 Subpart-P7 incorporated by reference in Section 170.4107 if the test results for the system tank or delivery piping indicate that a leak exists;
 - 2) Further investigation is not required if the test results for the system tank and delivery piping do not indicate that a leak exists, and if environmental contamination is not the basis for suspecting a release;
 - 3) Owners and operators must conduct a site check as described in subsection (b) if the test results for the system tank and delivery piping do not indicate that a leak exists, but environmental contamination is the basis for suspecting a release;
- b) Site check--Owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site--in selecting sample types, sample locations and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ground water, and other factors appropriate for identifying the presence and source of the release.

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Section 170.590 Reporting and Cleanup of Spills and Overfills

- a) Owners and operators of UST systems must contain and immediately clean up a spill or overflow and report to the Illinois Emergency Services and Disaster Agency within 24 hours and begin corrective action in accordance with 40 CFR 280.7 Subpart P incorporated by reference in Section 170.4107 in the following cases:
 - 1) Spill or overflow of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; and
 - 2) Spill or overflow of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under 40 CFR 302.4 and 302.5, incorporated by reference in Section 170.4107.
- b) Owners and operators of UST systems must contain and immediately clean up a spill or overflow of petroleum that is less than 25 gallons, and a spill or overflow of a hazardous substance that is less than the reportable quantity, in doing so, procedures specified in Section 170.610 (a) through (d) shall be completed with, if cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the Illinois Emergency Services and Disaster Agency (ESDA), under 40 CFR 302.67 incorporated by reference in Section 170.4107, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center (800/424-0000). In addition, 35 Ill. Adm. Code 750.430 requires notification of ESDA (800/782-7660).

- a) Owners or operators of UST systems shall contain and immediately clean up a spill or overflow and report either release to Illinois Emergency Management Agency within 24 hours (if the product released is a hazardous substance, see Section 170.600 of this Part), and begin initial response and initial abatement in accordance with Sections 170.600 and 170.610, in the following cases:
 - 1) Spill or overflow of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; or
 - 2) Spill or overflow of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under 40 CFR 302.1 and 302.5, incorporated by reference in Section 170.410.
- b) Owners or operators of UST systems shall contain and immediately clean up a spill or overflow of petroleum that is 25 gallons or less and a spill or overflow of a hazardous substance that is less than the reportable quantity. In doing so, procedures specified in Section 170.610 (a) through (d) shall be complied with. If cleanup cannot be accomplished within 24 hours, owners or operators shall immediately notify Illinois Emergency Management Agency (IEMA). (Under 40 CFR

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- 1) If the test results for the excavation zone of the UST site indicate that a release has occurred, owners and operators must begin corrective action in accordance with 40 CFR 280.7 Subpart P incorporated by reference in Section 170.4107
- 2) If the test results for the excavation zone of the UST site do not indicate that a release has occurred, further investigation is not required.

Unless corrective action is initiated in accordance with Sections 170.600 and 170.610, owners or operators shall investigate and confirm all suspected releases of regulated substances requiring reporting under Section 170.590 within seven days, using the following procedures:

- a) System test. Owners or operators shall conduct tests (according to the requirements for tightness testing in Sections 170.530(c) and 170.540(b)) that determine whether a leak exists in that portion of the tank that routinely contains product or the attached delivery piping, or both.
 - 1) Owners or operators shall repair, replace or upgrade the UST system and begin corrective action in accordance with Sections 170.600 and 170.610, if the test results for the system, tank or delivery piping indicate that a leak exists;
 - 2) Further investigation is not required if the test results for the system, tank and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release; and
- 3) Owners or operators shall conduct a site assessment as described in subsection (b) below, if the test results for the system, tank and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release.

- b) Site assessment. Owners or operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations and measurement methods, owners or operators shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater and other factors appropriate for identifying the presence and source of the release.
 - 1) If the test results for the excavation zone or the UST site indicate that a release has occurred, owners or operators shall begin initial response and initial abatement in accordance with Sections 170.600 and 170.610;

- 2) If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

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302.1, incorporated by reference in Section 170.410, a release of a hazardous substance equal to or in excess of its reportable quantity shall also be reported immediately (rather than within 24 hours) to the National Response Center (800/424-8800). In addition, 35 Ill. Adm. Code 750.410 requires notification of IEMA (800/782-7860).

(Source: Amended at 19 Ill. Reg. 54671, effective APR 01 1995)

Section 170.600 Initial Response for UST Systems Containing Petroleum or Hazardous Substances

Upon confirmation of a release in accordance with Section 170.580 or after a release from the UST system is identified in any other manner, owners and operators must shall perform the following initial response actions within 24 hours of a release:

- a) Report the release to the Illinois Emergency Services and Disaster Agency Illinois Emergency Management Agency (e.g., by telephone or electronic mail); in the event of a release of a hazardous substance, the release is to be reported immediately [40 ILCS 100 and 29 Ill. Adm. Code 430];
- b) Take immediate action to prevent any further release of the regulated substance into the environment; and
- c) Identify and mitigate fire, explosion and vapor hazards.

(Source: Amended at 19 Ill. Reg. 54671, effective APR 01 1995)

Section 170.610 Initial Abatement Measures and Site Check Assessment

Unless directed in writing to do otherwise by the Office of the State Fire Marshal, owners and operators must perform the following abatement measures:

- a) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;
- b) Visually inspect any aboveground releases or exposed belowground releases and prevent further migration of the released substance into surrounding soils and ground water;
- c) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);
- d) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation site investigation abatement or corrective action activities; if these remedies include treatment or disposal of soils, the owner and operator must comply with applicable State and local requirements; and
- e) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source

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of the release have been confirmed in accordance with the site check required by Section 170.580(b) or the removal site assessment of Section 170.640(a) in selecting sample types, sample locations and measurement methods, the owner and operator must consider the nature of the stored substance, the type of backfill depth to ground water and other factors as appropriate for identifying the presence and source of the release.

Unless directed in writing to do otherwise by the Office of the State Fire Marshal, owners or operators shall perform the following abatement measures:

- a) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;
- b) Visually inspect any aboveground release or exposed belowground release and prevent further migration of the released substance into surrounding soils and groundwater;
- c) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);
- d) Remedy hazards posed by contaminated soils that are excavated or exposed, as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with applicable State and local requirements; and
- e) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site assessment required by Section 170.580(b) or the removal site assessment of Section 170.640(a). In selecting sample types, sample locations and measurement methods, the owner or operator shall consider the nature of the stored substance, the type of backfill depth to groundwater and other factors as appropriate for identifying the presence and source of the release. See 35 Ill. Adm. Code 731 and 732.

(Source: Amended at 19 Ill. Reg. 54671, effective APR 01 1995)

Section 170.620 Temporary Closure of Out-of-Service Status for UST Systems

- a) The owner of an UST system in a state of non-use who wants the system classified as temporarily out of service shall submit a written statement in accordance with Section 170.670;
- b) When an UST system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection in accordance with Section 170.460 and any release detection in accordance with Sections 170.600 through 170.550. Sections 170.560 through 170.610 and 40 CFR 280, Subpart F, incorporated by reference

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in Section 170.410, must be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue or 0.3 percent by weight of the total capacity of the UST system remain in the system.

c) When an UST system is temporarily closed for three months or more, owners and operators must also comply with the following requirements:

- 1) Leave vent lines open and functioning; and
- 2) Cap and secure all other lines, pumps, manways and ancillary equipment.

d) When an UST system is temporarily closed for more than 12 months, owners and operators must remove the UST system if it does not meet either performance standards in Section 170.420 for new UST systems or the upgrading requirements in Section 170.430, except that the 90-day and overfill equipment requirements do not have to be met. Owners and operators must remove the standard UST systems at the end of this 12-month period in accordance with Sections 170.630 through 170.660 unless the Office of the State Fire Marshal provides in writing an extension of the 12-month temporary closure period. Owners and operators must complete a site assessment in accordance with Section 170.640 before such an extension can be applied for and submit the request for an extension and the site assessment in writing to the Office of the State Fire Marshal within that 12-month period.

e) Temporarily out-of-service tanks may be left in place for a period of two years commencing from the date of non-use, provided the criteria specified in this Section are complied with during the first year of such non-use. An underground storage tank abandoned for a one-year period that is not in compliance with those criteria may not then comply and be classified as temporarily out-of-service.

a) The owner of a UST system in a state of non-use who wants the system classified as temporarily out-of-service shall submit a written request to the Office of the State Fire Marshal. The written request shall be submitted within three months from the date of non-use.

b) When a UST system is temporarily out-of-service, owners or operators shall continue operation and maintenance of corrosion protection in accordance with Sections 170.460, and any release detection in accordance with all applicable Sections of this Subpart. Sections 170.560 through 170.610 shall be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST system is empty. A UST system is empty when its contents have been removed using commonly employed practices, so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system.

c) When a UST system is temporarily out-of-service for three months or more, owners or operators shall also comply with the following requirements:

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- 1) Leave vent lines open and functioning; and
- 2) Cap and secure all other lines, pumps, manways and ancillary equipment.

d) When a UST system is temporarily closed for 12 months, owners or operators shall remove the UST system, within the subsequent 12 months. The UST system shall be removed if it does not meet performance standards in Sections 170.420 and 170.421 for new UST systems; however, this does not include spill and overfill equipment requirements. However, release detection is not required as long as the UST system is empty, as defined in subsection (b) above. Owners or operators shall remove a standard UST system at the end of this 12-month period in accordance with Section 170.670.

e) Owners or operators of temporary out-of-service UST systems in compliance with subsections (a), (b) and (c) above, may apply for a second 12-month extension period. To be eligible for this second 12-month extension period, a site assessment in accordance with Section 170.640 shall be completed, and the site assessment and request for an extension shall be submitted in writing to the Office of the State Fire Marshal within the first 12-month period.

f) Temporarily out-of-service tanks, which have received the extension in subsection (e) above, shall be removed at the end of that 12-month period in accordance with Section 170.670.

g) An underground storage tank brought back into use during either 12-month period, for which it had received authorized temporary out-of-service status, is no longer so classified and its owner shall submit an amended notification form, so stating. Any such system shall meet all applicable requirements of Sections 170.420 and 170.421.

h) Any change in the status of a UST system, as a result of adherence to this Section, requires compliance with notification requirements, as specified in Section 170.440(g).

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.630 Change-in-Service of UST Systems

Continued use of an UST system to store a non-regulated substance (so that it is no longer classified as an UST system) is considered a change in service. Before a change in service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with Section 170.640. However, a change in service may only occur during the first two years commencing with the date of installation of the tank.

a) From a Regulated Substance to a Non-Regulated Substance:

Continued use of a UST system to store a non-regulated substance (so that it is no longer classified as an UST system) is considered a

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change-in-service. Before a change-in-service, owners or operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with Section 170.640. However, a change-in-service may only occur during the first two years, commencing with the date of installation of the tank.

b) From a Regulated Substance to a Regulated Substance:

A change-in-service also consists of a conversion of a petroleum UST to a hazardous substance UST and vice versa. Before a change-in-service, owners or operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with Section 170.640.

c) From a Non-Regulated Substance to a Regulated Substance:

A non-UST system tank, which is used to store a non-regulated substance, may not be converted to a UST system tank unless the tank has been re-certified and is in compliance with all applicable upgrade requirements for new UST systems.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.640 Assessing the Site at Removal or Change-in-Service of UST Systems

a) Before removal or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site in selecting sample types, sample locations and measurement methods. Owners and operators must consider the method of removal, the nature of the stored substance, the type of backfill, the depth to ground water and other factors appropriate for identifying the presence of a release. The requirements of Section 170.640 are satisfied if one of the external release detection methods allowed in Section 170.530(f) and (f) is operating in accordance with the requirements in Section 170.530 at the time of removal and indicates no release has occurred.

b) If contaminated soils, contaminated groundwater or free product as a liquid or vapor is discovered under subsection (a), or by any other manner, owners and operators must begin corrective action in accordance with 40 CFR 280, Subpart F, incorporated by reference in Section 170.410.

a) After removal or a change-in-service is completed, the owner or operator shall perform a site assessment by measuring for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations and measurement methods, the owner or operator shall consider the method of removal, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the

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presence of a release. The requirements of this Section are satisfied if an external release detection method allowed in Section 170.530(e) and (f) is operating in accordance with the requirements in Section 170.530 at the time of removal and indicates no release has occurred.

b) The Office of the State Fire Marshal provides no additional guidance to performing a site assessment. This is the responsibility of the owner or operator.

c) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor, resulting from a UST system release, is discovered under subsection (a) above, or by any other manner, owners or operators shall begin initial response and initial abatement in accordance with Sections 170.600 and 170.610.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.650 Applicability to Previously Removed UST Systems

When directed in writing by the Office of the State Fire Marshal, the owner and operator of an UST system removed before December 22, 1988 April 21, 1989, must shall assess the excavation zone (including, if so ordered, re-excavating and assessing the site where the tank had been located) in accordance with Section 170.640 if a release from the UST may have, in the judgment of the Office, pose a current or potential threat to human health and or the environment.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.660 Removal or Change-in-Service Records

Owners and or operators must shall maintain records in accordance with Section 170.490 that are capable of demonstrating compliance with removal and or change-in-service requirements under all applicable Sections of this Subpart 170.620-through-170.670. The results of the excavation zone assessment required in Section 170.640 must shall be maintained for at least three years after completion of removal or change-in-service in one of the following ways:

- By the owners owner and or operators who took the UST system out of service;
- By the current owners owner and or operators of the UST system site; or
- By mailing these records to the Office of the State Fire Marshal if they cannot be maintained at the facility where the tank has been removed.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

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- 4) The tank shall be fitted with inert material such as sand, gravel, bentonite, or inert material mixed with portland cement to increase flowability. Inert foam material may be used upon written approval by the Office of the State Fire Marshal if a sufficient amount of other inert material is used to counteract buoyancy of the tank. Filling a tank with ready mix concrete is prohibited. The procedure for filling shall be in accordance with Sections 3-1 through 3-5, and 4-1 of API Recommended Practice 1604, incorporated by reference in Section 170.410.
- 5) Where a tank is allowed to be abandoned in place due to loss of support as specified in this subsection, the tank shall be removed when the support is no longer needed. This shall be when the object(s) needing support is no longer in need of support or has been removed.
- 6) When a tank is abandoned in place, the owner of the tank shall keep a permanent record of the tank location, the date of abandonment, and the method of conditioning the tank for abandonment, and forward a copy of such record to the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety, and
- 7) Persons seeking a waiver shall provide all documentation required in this subsection to the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety. Only the State Fire Marshal or the Director of the Division of Petroleum and Chemical Safety shall grant such a waiver.

- a) When an underground storage tank has been out of operation for 12 consecutive months, the owner of the tank shall remove it within the immediate subsequent 12-month period, subject to the following exceptions:

- 1) If the tank is placed in a "temporary out-of-service" status, pursuant to Section 170.620, upon termination of such status, the tank shall be removed pursuant to Section 170.620(d) or (f) of this Part.
- 2) If there is a "change-in-service" during the first 12-month period, pursuant to Section 170.630(a).
- 3) A waiver to "abandoned-in-place," pursuant to this Section is issued.
- 4) USTs that have not been in operation at any time after January 1, 1974, may not be required to be removed, unless the Office of the State Fire Marshal has determined that a release from the USTs poses a current or potential threat to human health and the environment.
- 5) Heating oil USTs, for consumptive use on the premises where stored, do not have to be removed, unless the Office of the State Fire Marshal has determined that a release from the USTs poses a current or potential threat to human health and the environment.

b) Removal:

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- 1) Remove all petroleum or hazardous substances and all accumulated sludges from the tank and connecting lines;
 - 2) Disconnect piping at all tank openings;
 - 3) Remove all sections of connecting lines which are not to be used further and cap or plug all tank openings;
 - 4) Remove tank from ground;
 - 5) Before removal and at any time thereafter, as determined by the Office of the State Fire Marshal, the tank shall be gas freed (vapors from the combustible of flammable liquid from the tank are not present in a concentration sufficient to support combustion) on the premises in accordance with Section 4 of API Recommended Practice 1604, incorporated by reference in Section 170.410, or shall be transported, in compliance with Illinois Environmental Protection Agency regulations (including 35 Ill. Adm. Code 807.210, 807.310, 809.201 or 809.301, as applicable), to an area not accessible to the public and the gas freeing completed at that location;
 - 6) In the event of a tank releasing or suspected of releasing a flammable or combustible liquid, the tank shall be gas freed on the premises in accordance with Section 4 of API Recommended Practice 1604, incorporated by reference in Section 170.410, prior to removal from the excavation zone and may not be gas freed elsewhere; and
 - 7) In subsections (b)(5) and (6) above, references to Section 4 of API Recommended Practice are so modified that at least 5 percent of the lower flammable limit shall be obtained before the tank is considered safe for removal, instead of 20 percent, as required in the above cited API Recommended Practice 1604.
 - 8) Compliance with this subsection (b) is the responsibility of the contractor.
- c) Disposal of Tanks:
If a tank is to be disposed of as junk, it shall be retested for combustible or flammable vapors and, if necessary, rendered gas free. After removal and before releasing to a junk dealer, a sufficient number of holes or openings (at least two percent of the total surface area of the tank) shall be made in it to render it inoperative for further use as a UST. Sections 4.3 and 7 of API Recommended Practice 1604, incorporated by reference in Section 170.410, provide information on safe procedures for such an operation. If the tank last contained leaded gasoline, an unknown petroleum product or a hazardous substance, it may only be scrapped as junk or re-certified. Compliance with this subsection (c) is the responsibility of the contractor.
- d) Abandonment-in-Place:
1) Tanks, outside the jurisdiction of the City of Chicago, filled with inert material, as described in subsection (2)(C) below, prior to October 1, 1985, need not be removed; however, the owners shall provide documentation of fill material and date of

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fill, upon request by the Office of the State Fire Marshal. The documentation shall be a receipt or a written statement from the contractor who did the fill, a statement from the inspector who inspected the tank or a written statement from anyone designated by the State Fire Marshal or the Director of the Division of Petroleum and Chemical Safety. Tanks, inside the jurisdiction of the City of Chicago, which were abandoned-in-place prior to July 28, 1989 (the date of repeal of home rule by the City over USTs) in accordance with City laws, regulations or ordinances, need not be removed.

2) Waiver of the removal requirement for a tank and piping, allowing them to be abandoned-in-place, shall be granted where it would be infeasible to remove the UST due to loss of adjacent or subadjacent support of nearby structures, railroad tracks, streets (as defined in Section 1-201 of the Illinois Vehicle Code [625 ILCS 5/1-201]), other USTs or in unusual situations where removal is infeasible due to other reasons, as determined by the Office of the State Fire Marshal, or is infeasible because of inaccessibility, as determined by the Office. The following criteria shall be met:

A) A complete plan or diagram of the area shall be provided and show the location of tanks, fill pipes, vent lines, sewers, streets, product lines and buildings;

B) A Certification of Site Condition shall be provided, which includes but is not limited to, facility name and location, number and size of USTs involved and that the subject UST site is clean or contaminated;

C) The tank shall be filled with inert material such as sand, gravel, clay, bentonite or inert material mixed with Portland cement to increase flowability. The portland cement concentration may not exceed 50 lbs. per cu. yd. of mixed material. Inert foam material may be used upon written approval by the Office of the State Marshal, if a sufficient amount of other inert material is used to counteract buoyancy of the tank. Calculations are necessary to insure that sufficient ballast is provided to counteract buoyant forces created by 100 percent submersion of the tank being filled. Filling a tank with ready mix concrete is prohibited. The procedure for filling shall be in accordance with Sections 3.1 through 3.5 and 4.1.1 of API Recommended Practice 1604, incorporated by reference in Section 170.410;

D) When a UST is allowed to be abandoned-in-place, as specified in this subsection (d), the abandoned-in-place UST shall be removed when the condition for issuing the permit no longer exists. The removal procedure is exempt from this part. Issuance of the waiver was conditioned upon compliance with this subsection:

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E) Contractors seeking a waiver shall provide all documentation required in this subsection (d) to the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety of any such person duly delegated such authority, shall grant such a waiver;

F) Compliance with subsections (A) through (E) of this subsection (d)(2) is the responsibility of the contractor;

G) When a UST is abandoned-in-place, the owner of the UST shall keep a permanent record of the UST location, the date of abandonment-in-place and the procedure used for abandonment-in-place. Upon request by the Office of the State Fire Marshal, Division of Petroleum and Chemical Safety, the owner shall forward a copy of such record to the Office, within 14 days of receipt of a written request by the Office sent to the last known address by United States registered or certified mail; and

H) In the event there is a delegation of authority to the City of Chicago to enforce UST rules and regulations, pursuant to 430 ILCS 15/2, subject to the terms of such agreement, the City has the authority to modify subsection (d)(2) of this Section, to issue permits to abandon-in-place USTs located within the jurisdiction of the City and request records of abandonment-in-place; however, any such criteria for abandonment-in-place shall be as stringent as that of the Office of the State Fire Marshal.

e) Office of the State Fire Marshal checklists, located in Appendix C or D of this Part, shall be adhered to for removal and abandonment-in-place.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.672 Pre-'74 and Heating Oil USTs

a) Although USTs not in operation at any time after January 1, 1974 (commonly referred to as "pre-'74 USTs") are not registrable (see Section 170.440) and are not required to be removed, unless the Office of the State Fire Marshal has determined that a release from the USTs poses a current or potential threat to human health and the environment, they remain classified as USTs; consequently, if they are removed or abandoned-in-place, permits secured in accordance with Section 170.541 are required, as well as compliance with all other applicable Sections in this Subpart.

b) Heating oil USTs (for consumptive use on the premises where stored), regardless when last in operation, are not required to be removed, unless the Office of the State Fire Marshal has determined that a release from the USTs poses a current or potential threat to human health and the environment. However, they remain classified as USTs;

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c) consequently, if they are removed or abandoned-in-place, permits secured in accordance with Section 170.541 are required. Also, they are subject to the notification requirements in Section 170.440, as well as compliance with all other applicable Sections in this Subpart. All USTs referenced in subsections (a) and (b) of this Section, which the Office of the State Fire Marshal has not determined are the source of a release that poses a current or potential threat to human health and the environment, remain classified as USTs and are subject to all applicable Sections in this Subpart.

(Source: Added at 19 Ill. Reg. 5467 effective 3/1/1995)

SUBPART C: UNDERGROUND STORAGE TANKS -- FINANCIAL RESPONSIBILITY REQUIREMENTS

Section 170.700 Incorporation-by-Reference Definitions

[illegible]

"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one or more mechanisms listed in Section 170.730, including the fiduciary of a designated savings account.

"UST" means underground storage tank system.

(Source: Section 170.700 repealed, new Section added at 19 Ill. Reg. 5467, effective 1/1/2005)

Section 170.705 Incorporation by Reference

Code of Federal Regulations (CFR), available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401 (202) 512-1800;

(Source: Added at 19 Ill. Reg. 6417, effective 1/1/95)

Section 170.710 Applicability

a) This Subpart applies to all owners or operators of USTs in the ground as of April 1, 1995.

b) All owners or operators of hazardous substance USTs are excluded from regulations pursuant to this Subpart.

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c) Although the UST Fund assists certain petroleum UST owners in paying for corrective action or third-party liability [45 ICES 5/57.9], for purposes of this Subpart, the UST Fund is not considered a mechanism for financial responsibility compliance, as required under this Subpart.

d) None of the financial responsibility mechanisms, as specified in Section 170.730, are required by the Office of the State Fire Marshal to include a standby trust.

(Source: Added at 19 Ill. Reg. 5467, effective)

Section 170.720 Amount

Each owner or operator shall maintain financial responsibility in the sum of \$20,000, regardless of the number of URS or facilities owned or operated. This \$20,000, shall be comprised as follows:

a) \$10,000 for corrective action; and

b) \$10,000 for third-party liability for bodily injury or property damage (for definitions of "bodily injury" or "property damage", see 415 ILCS 5/57.2).

(Source: Added at 19 Ill. Reg. F. 2167, effective 4-1-1995)

Section 170.730 Mechanisms of Financial Responsibility

The permissible mechanisms for proof of financial responsibility are as follow:

a) Commercial or private insurance, including risk retention groups (40 CFR 280.97, incorporated by reference in Section 170.705);

b) Self-insurance (40 CFR 280.95, incorporated by reference in Section 170.705), if there is a net worth of at least \$200,000;

c) Guarantee (40 CFR 280.36, incorporated by reference in Section 170.705);

d) Surety bond (40 CFR 280.98, incorporated by reference in Section 170.705):

e) Letter of credit (40 CFR 280.99 incorporated by reference in Section 170.705);

f) Certificate of deposit;

g) Designated savings account; or

h) Any combination of the above mechanisms.

(Source: - Added at 19 Ill. Reg. _____ effective

Section 170.740 Proof of Financial Responsibility

a) Proof of financial responsibility for Section 170.730(a), (b), (c),

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(d) or (e), shall be maintained on the respective forms as located in 40 CFR 280, incorporated by reference in Section 170.705. These forms shall be modified to comply with applicable State laws and regulations (see Section 170.720). It is the responsibility of tank owners or operators to modify the forms.

b) Proof of financial responsibility for Section 170.730(f) or (g) shall be documented by written proof from the appropriate financial institution.

c) The forms referenced in subsection (a) of this Section shall be renewed on an annual basis.

d) The forms referenced in subsections (a) and (b) of this Section shall include the name, address and facility identification no. for each facility, as applicable.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.750 Substitution of Financial Responsibility Mechanisms by an Owner or Operator

a) An owner or operator may substitute any alternate financial responsibility mechanism as specified in Section 170.730, provided that at all times the owner or operator maintains an effective financial responsibility mechanism or combination of mechanisms that satisfies the requirements of this Subpart.

b) After obtaining alternate financial responsibility as specified in Section 170.730, an owner or operator may cancel the replaced financial responsibility mechanism by providing notice to the provider of financial assurance.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.760 Cancellation or Non-Renewal by a Provider of Financial Assurance

a) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending notice of termination by certified mail to the owner or operator.

1) Termination of a guarantee, surety bond or letter of credit may not occur until 120 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.

2) Termination of commercial or private insurance or risk retention group coverage may not occur until 60 days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.

b) If a provider of financial assurance cancels or fails to renew an

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assurance mechanism, for reasons as specified in Section 170.795(c), the owner or operator must obtain alternative coverage as specified in Section 170.730 within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator shall notify the Office of the State Fire Marshal of such failure, in writing, by certified mail, within 10 days thereafter, and in the submission include:

1) Name and address of the provider of financial assurance;

2) Effective date of termination;

3) Evidence of the financial responsibility mechanism subject to the termination, maintained in accordance with Section 170.780(b); and

4) Name, address and facility identification no. for each affected facility.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.770 Reporting by Owner or Operator

a) An owner or operator shall certify compliance with the financial responsibility requirements in Section 170.730, as specified in the notification form, when notifying the Office of the State Fire Marshal of a new UST, in accordance with Section 170.440.

b) An owner or operator shall notify the Office of the State Fire Marshal on an amended notification form when there is a change in status of financial responsibility, in accordance with Section 170.440(g).

c) The Office of the State Fire Marshal may require an owner or operator to submit evidence of financial responsibility as described in Section 170.780(b) or other information relevant to compliance with this Subpart at any time. Such a request shall be in writing, sent by United States registered or certified mail, to the facility or owner's address on the most recent notification form submitted to the Office.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.780 Recordkeeping

a) Owners or operators shall maintain evidence of all financial responsibility mechanisms used to demonstrate financial responsibility (pursuant to this Subpart) for a UST until released from the requirements of this Subpart under Section 170.790. An owner or operator shall maintain such evidence at the UST site or the owner's or operator's principal place of business. Records maintained off-site shall be made available upon written request from the Office of the State Fire Marshal, sent by United States registered or

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certified mail, to the facility or owner's address on the most recent notification form submitted to the Office, and the recipient shall comply within 10 days after receipt.

- b) An owner or operator shall maintain a copy of the following types of evidence of financial responsibility:

- 1) An owner or operator using a financial responsibility mechanism as specified in Section 170.730 shall maintain a copy of the instrument, worded as specified in Section 170.740.
- 2) An owner or operator using a financial test or guarantee shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence shall be on file no later than 120 days after the close of the financial reporting year.
- 3) An owner or operator using a commercial or private insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments of the agreement.
- 4) An owner or operator using a financial responsibility mechanism as specified in Section 170.730, shall maintain an updated copy of a certification of financial responsibility as worded in 40 CFR 280.107(6), incorporated by reference in Section 170.705.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995.)

Section 170.790 Release from the Requirements

An owner or operator is no longer required to maintain financial responsibility pursuant to this Subpart for a UST after the UST has been removed or abandoned-in-place, in accordance with Section 170.670.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995.)

Section 170.795 Bankruptcy or Other Incapacity of Owner or Operator, or Provider of Financial Assurance

- a) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 7 or 11 of the United States Bankruptcy Code (11 U.S.C. 701 et seq. and 1101 et seq.), naming an owner or operator as debtor, the owner or operator must notify the Office of the State Fire Marshal by certified mail of such commencement and submit the appropriate forms listed in Section 170.780(b), documenting current financial responsibility.

- b) Within 10 days after commencement of a voluntary or involuntary proceeding under Title 7 or 11 of the United States Bankruptcy Code

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(11 U.S.C. 701 et seq. and 1101 et seq.), naming a guarantor providing financial assurance as debtor, such guarantor must notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in 40 CFR 280.96, incorporated by reference in Section 170.700.

- c) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial responsibility in the event of a bankruptcy or incapacity of its provider of financial assurance or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, commercial or private insurance policy, risk retention group coverage policy, surety bond, letter of credit, certificate of deposit or act as fiduciary of a designated savings account. The owner or operator must obtain alternate financial assurance as specified in Section 170.730 within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, the owner or operator shall notify the Office of the State Fire Marshal in writing, sent by certified mail, within 10 days thereafter.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995.)

SUBPART D: UNDERGROUND AND ABOVEGROUND STORAGE TANKS--ADMINISTRATIVE
PROCEDURE RULES FOR ORDERS ISSUED BY THE DIVISION OF PETROLEUM AND
CHEMICAL SAFETY

Section 170.800 Definitions

"Contractor" means installer, repairer, remover, replacer or tester of underground storage tanks; "repairer" includes "upgrader".

"Denial of the registration of an underground storage tank (UST)" means refusal to classify a UST as registered, when a registration form as prescribed by 68FR7 was submitted to register the UST.

"Hearing Officer" means the presiding official designated by the State Fire Marshal to conduct a hearing and preside over pre-hearing and post-hearing matters in a contested case.

"in-use" means when referring to an underground storage tank (UST) that the UST must have had input or output of product during the normal course of operation; it does not include the following:

compliance with leak detection requirements as specified in Subpart B;

the mere containment or storage of product in excess of one

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year?

adding-product--to-a-UST, once the UST is to be removed pursuant to Subpart B, or
withdrawing product from a UST, once the UST is to be removed pursuant to Subpart B.

"OSFM" means "Office of the State Fire Marshal."

"owner" means "a person who has legal or equitable title to a UST system which has or has had a regulated substance(s) contained in it." Section 411 of the Gasoline Storage Act (111 Rev. Stat., 1989 and 1990 Supp., ch. 127-1/2, par. 156-1/2) and "party" or "parties" means an individual(s), trust(s), firm(s), partnership(s), joint stock company(s), corporation(s), consortium(s), joint venture(s), commercial entity(s), Federal government, State government, municipality, commission(s), unit(s) of local government, or political subdivision(s) of the State, or any interstate body(s).

"Revocation" means "the registration of a contractor means termination of a contractor's license to perform any activity the contractor was licensed to perform. Upon conclusion of the revocation period, a contractor whose registration was revoked may perform the activity(s) the contractor was registered to perform only by re-registering immediately before the discontinuation of its use."

"Revocation" means "the registration of a contractor means termination of a contractor's license to perform any activity the contractor was licensed to perform. Upon conclusion of the revocation period, a contractor whose registration was revoked may perform the activity(s) the contractor was registered to perform only by re-registering immediately before the discontinuation of its use."

"Suspension of the registration of a contractor" means the prohibition of a contractor's performance of the activity(s) the contractor was registered to perform for a period of time not to exceed one year. If the period of suspension ends prior to the termination of the registration period, the suspended contractor may resume performing the activity(s) the contractor was registered to perform for the remainder of the registration period. If the period of suspension ends subsequent to the termination of the registration period, the suspended contractor may not perform the activity(s) the contractor was registered to perform until the suspension period has ended, and the contractor has re-registered assuming the applicant is not otherwise prohibited from re-registering.

"Contractor" is a licensed person, excluding employees, who performs any UST activity.

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"Denial of the registration of an underground storage tank (UST)" means refusal to classify a UST as registered, when a notification form, as prescribed by OSFM, was submitted to register the UST.

"Hearing Officer" means the presiding official designated by the State Fire Marshal to conduct a hearing and preside over pre-hearing and post-hearing matters in a contested case.

"OSFM" means "Office of the State Fire Marshal."

"Operation" or "use" in reference to underground storage tanks means that the tank must have had input or output of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes, during the regular course of its usage. "Operation" does not include (i) compliance with leak detection requirements as prescribed by rules and regulations of the Office of the State Fire Marshal or (ii) the mere containment or storage of petroleum, petroleum products, or hazardous substances, with the exception of hazardous wastes. [430 ILCS 15/4]

"Owner" means:

In the case of a UST system in use on November 8, 1984, or brought into use after that date, any person who owns a UST system used for storage, use or dispensing of regulated substances; and
In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

"Party" means an individual, trust, firm, partnership, joint stock company, corporation, consortium, joint venture, commercial entity, Federal government, State government, municipality, commission, unit of local government or political subdivision of the State, or any interstate body.

"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one or more mechanisms listed in Section 170.730, including the fiduciary of a designated savings account.

"Revocation of the license of a contractor" means termination of a contractor's license to perform any activity the contractor was licensed to perform. Upon conclusion of the revocation period, a contractor whose license was revoked may perform any activity the contractor was licensed to perform only by re-licensing (assuming the applicant is not otherwise prohibited from re-licensing).

"Revocation of the registration of an underground storage tank (UST)"

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means termination of a UST being classified as registered.

"Suspension of the license of a contractor" means the prohibition of a contractor's performance of any activity the contractor was licensed to perform for a period of time not to exceed one year. If the period of suspension ends prior to the termination of any license period, the suspended contractor may resume performing that activity and the contractor was licensed to perform for the remainder of any license period. If the period of suspension ends subsequent to the termination of any license period, the suspended contractor may not perform the activity the contractor was licensed to perform until the suspension period has ended and the contractor has been re-licensed (assuming the applicant is not otherwise prohibited from re-licensing).

"UST" means underground storage tank system.

"UST" activity means a UST:

Installation--including retrofitting and cathodic protection installation;
Repair--including upgrade, which includes retrofitting and cathodic protection installation;
Removal--decommissioning, which includes abandonment in place;
Relining;
Tank tightness testing; or
Cathodic protection testing.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.810 Grounds and Time for Appeal

An Administrative Order issued pursuant to the following statutory provisions may be appealed in accordance with this Subpart:

- UST registration denial or revocation. Section 2(3)(e) of the Gasoline Storage Act ~~1999~~ and ~~1998~~ ~~Supp.~~ ~~ch. 127-1727-par. 154(3)(e)~~ [430 ILCS 15/2(3)(e)].
- Contractor registration suspension or revocation. Any violation by a contractor; suspension or revocation of that contractor's license may result from any violation committed by the contractor. Section 15/2(3)(a), (b), (c) and (e) of the Gasoline Storage Act [430 ILCS 15/2(3)(a), (b), (c) and (e)].
- Emergency action. Section 6(c) of the Gasoline Storage Act [430 ILCS 15/6(c)].
- Violation of any and all regulations regulation affecting a UST. (Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)]).
- An appeal of an Administrative Order issued pursuant to subsections (a) through (d) of this Section may only be requested in writing

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within 10 days after receipt (Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)]).

- f) For purposes of this Section, "license" is synonymous with "registration."
Violation of any and all regulations affecting aboveground storage tanks. (See 41 Ill. Adm. Code 160 and 160 for Administrative Orders issued by the Division of Petroleum and Chemical Safety. Section 2(4)(b) of the Gasoline Storage Act.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.820 Notice of Hearing

Notice of the time and place for any hearing shall be given to any party concerned. If an attorney, through written communication, is known to represent any party to a hearing, then notice is to be given to that attorney at least 30 days prior to the hearing date. Notice sent to the last known address by United States registered or certified mail, addressed to all parties concerned or their attorneys, when applicable, is sufficient.

- a) Prior to the commencement of a hearing, a party to that hearing may be granted one continuance, for any reason, via written communication, no later than 10 working days prior to the hearing date. No other continuance prior to a hearing will be granted for other than illness or comparable emergency.

- b) Scheduling conflicts of an attorney constitute grounds for a continuance only when the conflict is with another judicial body.

(Source: Amended APR 01 1995 at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.830 Appearances

- a) At hearings before OSPM, a party to the proceeding may represent that party or that party may be represented at the hearing by any person who is admitted to practice as an attorney by the Supreme Court of Illinois or who is authorized to practice law in this State by rules of court.
- b) Others not qualified to practice law in this State may not appear at hearings before OSPM in a representative capacity but such persons

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~~may testify at such hearings and may assist attorneys in preparation of cases for presentation by such attorneys at hearings.~~

At hearings before OSFM, parties to a proceeding may represent themselves or be represented by individuals they so designate. The failure of a party to be represented by an attorney does not constitute grounds for a hearing; likewise, the choice by parties to be represented by themselves or designated individuals does not constitute such grounds.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.850 Authority of Hearing Officer

The Hearing Officer shall:

- a) ~~administer~~Administer oaths and affirmations;
- b) ~~preside~~Preside over the hearings; regulate the course of hearings; set the time and place for continued hearings; set the time for filing documents; and provide for the taking of testimony by deposition, if when necessary;

- c) Set the time and place for the continuance of a hearing once the hearing has commenced (Section 170.820 governs the continuance of a hearing prior to its commencement);

- d) ~~examine~~Examine witnesses and direct witnesses to testify; limit the number of times any witness may testify; limit repetitions or cumulative testimony; and set reasonable limits on the amount of time each witness may testify;

- e) ~~receive~~Receive evidence (see Section 170.850 for evidentiary rules regarding denial or revocation of OSF registration); rule upon objections to admissibility of evidence; and rule upon offers of proof;

- f) ~~sign~~Sign and issue subpoenas that require attendance, testimony or the production of papers, books, documentary evidence or other tangible things;

- g) ~~dispose~~Dispose of procedural requests or similar matters; ~~render~~Render findings of fact, conclusions of law, opinions and recommendations for an Order of the State Fire Marshal;

- h) ~~enter~~Enter any Order that expedites the purpose of this rule; and ~~will~~Generally conduct the hearing and all pre-hearing and post-hearing matters according to this Subpart.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.860 Evidence to be Presented by the Owner to Object to the Denial or Revocation of the Registration of an Underground Storage Tank (UST) (Repealed)

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- a) ~~The owner must be the owner of the OSF system.~~
- b) ~~The OSF must have been in use at some time since January 17, 1974.~~
- c) ~~The OSF (excluding heating oil OSFs) must have been in the ground as of September 24, 1987.~~
- d) ~~Heating oil OSFs:~~
 - 1) ~~greater than 1700 gallons must have been in the ground as of July 17, 1990;~~
 - 2) ~~1700 gallons to 10 gallons must have been in the ground as of September 6, 1991.~~
- e) ~~Whatever other evidence the Hearing Officer deems appropriate pursuant to Section 170.850(d).~~

(Source: Repealed at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.880 Transcripts

- a) The proceedings at hearings shall be:
 - 1) Recorded electronically by the Hearing Officer or OSFM and transcribed by either; or
 - 2) recorded Recorded and transcribed by a hearing reporter (also known as a "court reporter").
- b) The method of recording and transcribing a hearing, as specified in subsections (a)(1) and (2) of the Section, shall be determined by OSFM.
- c) Transcripts of hearings prepared by a hearing reporter will not be provided by OSFM to any party.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.890 Order of the State Fire Marshal

- a) The Hearing Officer shall submit the findings, conclusions, opinions (see Section 170.910(c)) and recommendations to the Fire Marshal. The Hearing Officer's recommendations regarding duration of suspension or revocation of a registration the license of a contractor or assessment of fines against a contractor or employee of a contractor, or other party will be included in the submissions to the Fire Marshal (see Section 170.910(a) and (b) and (c)).
- b) The Fire Marshal shall review the submissions and issue an Order of the State Fire Marshal within a reasonable time to sustain, modify or revoke the Administrative Order; any suspension, denial or revocation or assessment of fines shall be included.
- c) The execution of a written Order of the State Fire Marshal will become effective immediately and will constitute a final administrative decision.
- d) The parties and their attorneys shall be notified as soon as

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reasonably possible by sending them a copy of the Order by United States registered or certified mail addressed to the party concerned at the their last known address of that party.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.900 Authority to Suspend--Beny--or Revoke-Registration Enforce Administrative Orders and Assess Fines

a) Contractor Licensing:

1) Authority for the suspension or revocation of the license of a contractor is located in Section 7(b) of the Gasoline Storage Act [430 ILCS 15/7(b)].

2) Authority to suspend or revoke the license of a contractor, located in Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)], requires the issuance of an Administrative Order to the contractor and compliance with the Illinois Administrative Procedure Act [5 ILCS 100].

b) UST Registration:

1) Authority for the denial or revocation of the registration of a UST is located in Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)].

2) Authority to deny or revoke the registration of a UST, located in Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)], requires the issuance of an Administrative Order to the owner and compliance with the Illinois Administrative Procedure Act [5 ILCS 100].

3) Authority to issue Administrative Orders, located in Section 2(3)(e) of the Gasoline Storage Act [430 ILCS 15/2(3)(e)], to owners or operators, employees of contractors or providers of financial assurance, requires the issuance of an Administrative Order and compliance with the Illinois Administrative Procedure Act [5 ILCS 100].

4) Authority to require emergency action, located in Section 6(c) of the Gasoline Storage Act [430 ILCS 15/6(c)], requires the issuance of an Administrative Order to the owner or operator to perform the emergency action and compliance with the Illinois Administrative Procedure Act [5 ILCS 100].

5) Authority to assess fines against contractors or employees of contractors, owners or operators, or providers of financial assurance is located in Section 7(a) of the Gasoline Storage Act [430 ILCS 15/7(a)].

6) For purposes of this Section, "license" is synonymous with "registration."

a) Authority for the suspension of the registration of a contractor or the revocation of the registration of a contractor is located in Section 7(b) of the Gasoline Storage Act (Ill. Rev. Stat. 1999 and

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1990-Supp. 7-ch. 127-147-part-159(b)).

b) Authority for the denial of the registration of an underground storage tank or the revocation of the registration of an underground storage tank is located in Section 2 of the Gasoline Storage Act.

c) Authority to suspend or deny or revoke requires the issuance of an Administrative Order to the contractor or owner of the underground storage tank, whichever the case may be, and compliance with the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1999 and 127, part-1001-et-seq.) is located in Section 2 of the Gasoline Storage Act.

d) Authority for emergency action requires the issuance of an Administrative Order to the owner or operator of both to perform the emergency action is located in Section 6(c) of the Gasoline Storage Act.

(Source: Amended at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.910 Suspension or Revocation of the Registration License of a Contractor and Assessment of Fines Against a Contractor or Employee of a Contractor for Violations of Subpart B or E

a) The violation(s) of a provision(s) of 41 Ill. Adm. Code, Subpart B, including adopted standards, by a contractor, may result in a suspension or revocation of that contractor's registration license for the following durations:

- 1) For the first violation committed at any facility, the registration license of any contractor may be suspended or revoked up to one year.
- 2) For the second violation committed at any facility, the registration license of any contractor may be suspended for any period of time up to one year or may be revoked up to two years.
- 3) For the third violation(s), and any violation thereafter, committed at any facility, the registration license of any contractor may be suspended up to one year or revoked for any period of time.

b) The violation(s) of a provision(s) of 41 Ill. Adm. Code, Subpart A E, including adopted standards, by a contractor, may result in a suspension or revocation of that contractor's registration license for the following durations:

- 1) For the first violation, the registration license of any contractor may be suspended up to six months.
- 2) For the second violation, the registration license of any contractor may be suspended or revoked up to one year.
- 3) For the third violation, the registration license of any contractor may be suspended up to one year or revoked up to two years.
- 4) For the fourth violation, and any violation thereafter, the

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registration license of any contractor may be revoked up to 5 years.

- e) Hearing Officer Guidelines for Suspension or Revocation:
 1) In determining if the registration of a contractor shall be
suspended or revoked and if so for how long, the Hearing
Officer shall consider in addition to each of the
following factors, giving equal weight to each:

A) threat to public health, safety or property, considering the
nature, extent and gravity of violation;
 B) harm to public health, safety or property, considering the
nature, extent and gravity of violation;
 C) time between the instant violation and any previous
violation that resulted in suspension or revocation, and the
length of time between the suspension or revocation and
serious the penalty;

B) culpability of the violator;
 B) recalcitrance toward the registration violation and

- 2) the time period for any suspension or revocation may be removed
consecutively or concurrently with the time period for any other
suspension or revocation;

d) Effects of Suspension or Revocation:

- 1) A contractor whose registration license was suspended or revoked
 as a result of a violation(s) involving one or more registered
 licensed activities, is also prohibited, in a like manner, for a
 like duration, from performing any other activity the contractor
 was registered licensed to perform.

- 2) During the period of a suspension or revocation, the contractor
 whose registration license was suspended or revoked may not
register be licensed to perform any other activity.

- 3) A contractor whose registration license was suspended or revoked,
 during such period of suspension or revocation, may not perform
 any activity requiring registration a license pursuant to a
 permit issued prior to the suspension or revocation; in such a
 case, the contractor is not entitled to a refund of the permit
 fee and is not entitled to amend the permit or permit application
 to list another contractor.

- 4) A contractor whose registration license has been suspended or
 revoked may not register be licensed under the name of a
 different contractor during such period of suspension or
 revocation.

- 5) A contractor whose registration license has been suspended or
 revoked may not be employed as an agent or subcontractor of a
registered licensed contractor to perform any activity the for
 which a license is required contractor was registered to perform.

- 6) For purposes of this subsection (c), any officer of a
 corporation, or any owner or co-owner of any other business
 entity that is a contractor, is also identified as a contractor

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that is one and the same as the business entity at the time of
 the suspension or revocation.

- d) The violation of a provision of 41 Ill. Adm. Code 170, Subpart B or E,
including adopted standards, by a contractor or an employee of a
contractor, may result in the assessment of fines against that
contractor or employee.

(Source: Amended at 19 Ill. Reg. 5467, effective
APR 01 1995)

Section 170.920 Assessment of Fines Against Non-Contractors for Violations of Subpart B

The violation of a provision of 41 Ill. Adm. Code 170, Subpart B, by other than
 a contractor or employee of a contractor, may also result in the assessment of
 fines against that party.

(Source: Added at 19 Ill. Reg. 5467, effective
APR 01 1995)

Section 170.930 Assessment of Fines Against an Owner, Operator or Provider for Violations of Subpart C

The violation of a provision of 41 Ill. Adm. Code 170, Subpart C, by an owner,
 operator or provider may result in the assessment of fines against that party.

(Source: Added at 19 Ill. Reg. 5467, effective
APR 01 1995)

Section 170.940 Hearing Officer Guidelines for Suspension, Revocation or Assessment of Fines

In determining if the license of a contractor shall be suspended or revoked or
 fines assessed against a contractor or the employee of a contractor, the
 Hearing Officer shall consider, in addition to Section 170.910(a) and (b), the
 following factors, giving equal weight to each:

- a) Threat to public health, safety or property, considering the nature,
extent and gravity of violation;

- b) Harm to public health, safety or property, considering the nature,
extent and gravity of violation;

- c) Time between the instant violation and any previous violation that
resulted in suspension, revocation or assessment of fines (the lesser
the period of time between violations, the more serious the penalty);
Culpability of the violator;

- d) Recalcitrance toward the regulation violated;

- e) Number of previous UST violations resulting in a negative finding and
not on appeal;

- g) Fraud or deceit in obtaining a license;

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- b) Knowing, aiding or abetting the unauthorized installation, removal, abandonment-in-place, upgrade, repair, testing or relining of a UST system without certified supervisory personnel;
- j) Any negligence, incompetence or misconduct in the discharge of the duties required by Subpart B or E;
- j) Conviction of a felony or misdemeanor related to the circumstances of a UST system installation, removal, abandonment-in-place, upgrade, repair, testing or relining; and
- k) Adjudication of mental incompetence by the courts.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

SUBPART E: LICENSING, CERTIFICATION AND IDENTIFICATION CARDS

Section 170.1000 Definitions

"Certification" is the passage by an individual of the IFCI Certification Examination.

"Contractor" is a licensed person, excluding employees, who performs any UST activity.

"IFCI" means International Fire Code Institute.

"Person" means an individual, trust, firm, partnership, joint stock company, corporation, federal agency, state, municipality, commission, unit of local government or political subdivision of a state or any interstate body. "Person" also includes consortium, joint venture, commercial entity or the United States Government.

"UST" means underground storage tank system.

"UST activity" means a UST:

- Installation -- including retrofitting and cathodic protection installation;
- Repair -- including upgrade, which includes retrofitting and cathodic protection installation;
- Removal -- decommissioning, which includes abandonment-in-place; Relining;
- Tank tightness testing; or
- Cathodic protection testing.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.1100 Contractor Licensing

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In order for a contractor to be considered licensed with the Office of the State Fire Marshal, it is necessary for the contractor to submit to the Office a current contractor license application form, as provided by the office, and comply with the following:

- a) Pay an annual licensing fee of \$100 per type of UST activity to the Office of the State Fire Marshal on or before 30 days from the date on the invoice requesting payment of the fee. The payment is to be by check or money order made payable to "Office of the State Fire Marshal."
- b) Each contractor shall provide a list of its certified individual contractors or certified employees to the Office of the State Fire Marshal, stating any UST activity in which the individual contractor or employee is certified, and sign an affidavit that 41 Ill. Adm. Code 170 has been distributed to all certified individual contractors and certified employees of the contractor as a prerequisite to becoming licensed. This information shall be submitted on forms as prescribed by the Office. A contractor is required to have a certified individual contractor or certified employee certified in each area of UST activity for which it is applying to be licensed.
- c) Each person who is a contractor shall notify the Office of the State Fire Marshal on a form prescribed by the Office, within 10 days:
 - 1) After the termination of employment of a certified individual contractor or certified employee, of such termination;
 - 2) After the re-certification to perform a UST activity by a individual contractor or employee; or
 - 3) Upon certification to perform a UST activity by an individual contractor or employee not previously certified or not previously certified to perform that activity.
- d) Each contractor shall maintain a general liability insurance policy of \$1,000,000 net, issued to the contractor, proof of which is to be submitted annually to the Office of the State Fire Marshal on a certificate of insurance issued by the insurer. This submission is required for a contractor to be licensed.
- e) Any registration prior to April 1, 1995 will expire on its anniversary date or June 1, 1995, whichever date is later, and will be considered the equivalent of a license. All license applicants on or after June 1, 1995, shall comply with the requirements of this Section in order to be considered licensed.
- f) No contractor shall apply for a license who is otherwise barred pursuant to Subpart D.
- g) For purposes of this Section, "license" (or any comparable variation of the term) is synonymous with "registration" (or any comparable variation of the term).

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.1200 Contractor and Employee Certification

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- a) In order to be certified to perform a UST activity, the individual must receive a passing score on the IFCI Certification Examination for that UST activity, the address and telephone number for IFCI are 9300 Jollyville Road, Suite 105, Austin, TX 78759-7455, (512)345-2633.
- 1) Certification for relining is regulated by Section 170.480.
- 2) Certification for tank tightness testing is regulated by Section 170.544.
- b) A contractor is considered certified in any UST activity in which an employee of that contractor is certified, except that if the contractor itself is an individual contractor, in order to be considered certified, the contractor shall meet the requirements of subsection (a) above.
- c) A contractor shall have at least one employee certified for the UST activity permitted, except, if the contractor itself is an individual contractor who is so certified, no such employee is required.
- d) A contractor shall have at least one employee certified in the UST activity for which the permit was issued activity supervising the UST activity being performed on the job site, except, if the contractor itself is an individual who is so certified, no such employee is required, but the individual contractor shall so supervise. At all times during UST operations, there shall be such a certified employee or certified individual contractor on the job site; subcontractors are not employees.
- e) Certified individual contractors and certified employees shall possess IFCI Identification Cards on UST job sites at all times, and such cards shall be available upon request by any Office of the State Fire Marshal representative.
- f) Certified individual contractors and certified employees shall possess OSHA Identification Cards (as described in Section 170.1300) on UST jobs sites at all times, and such cards shall be made available upon request by any Office of the State Fire Marshal representative.
- g) UST activities may be shut down by any Office of the State Fire Marshal representative if individual contractors or their employees are not in compliance with subsections (d) or (e) above. Such work shall not resume until approval is granted by the Office.
- h) Individuals certified by IFCI for UST activity, who passed the National Certification Examination in another state, are considered certified in this State; however, any such individual shall comply with State licensing requirements in Section 170.1100 and the requirements of this Section in order to perform any UST activity for which they are certified.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

Section 170.1300 Possession of OSHA Identification Cards by Certified Individual Contractors and Certified Employees of Contractors

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- a) Individual contractors and employees of contractors shall possess 40 General Site Worker Program Identification Cards and any valid Refresher Cards, which comply with Occupational Safety and Health Administration (OSHA) standards, on UST job sites at all times, and such cards shall be produced upon request by any Office of the State Fire Marshal representative. This is applicable only to UST installations, repairs, relinings, removals, abandonments-in-place and physical interior inspections. These OSHA standards are located in the document titled: "Occupational Safety and Health Standards and Interpretations," OSHA Standard 1910.120, "Hazardous Waste Operations and Emergency Response," 55 F.R. 14074, April 13, 1990 and 56 F.R., 15833, April 18, 1991, available from United States Department of Labor, Occupational Safety and Health Administration (OSHA), 230 South Dearborn Street, Room 3244, Chicago, IL 60604, (312) 353-2220.
- b) UST activities may be shut down by any Office of the State Fire Marshal representative if individual contractors or their employees are not in compliance with this Section. Such work shall not resume until approval is granted by the Office.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

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Section 170. APPENDIX A Checklist for Underground Storage Tank Installation

UST installations shall follow 41 Ill. Adm. Code 170 and any referenced material. The following checklist shall be adhered to as prescribed by the Office of the State Fire Marshal (OSFM) regulations, including adopted standards. These requirements do not exempt anyone from any other State or federal laws or regulations. Underground storage tank or "UST" includes underground pipes and cathodic protection connected thereto.

OSFM Storage Tank Safety Specialists (STSSs) witness ALL testing of USTs before installation, the placement of USTs and all backfilling operations around USTs.

- A. Secure proper permitting and provide required notice of installation to OSFM.
- B. Conduct on-site inspection to ensure accuracy of approved site plans, drawings and actual equipment being installed.
- C. Equipment with sufficient lifting capacity shall be used to unload and place USTs into the tank excavation. Tanks shall not be rolled, dropped or dragged.
- D. Upon delivery at the installation site, tanks and piping shall be inspected to detect any evidence of damage to coatings or structure.
- E. Upon discovery of any damage to tanks or piping, repairs shall be in accordance with manufacturer's instructions or supervision.
- F. Prepare excavations to ensure safe movement of equipment and materials. Excavations shall provide adequate space for the installation of tanks, piping and ancillary equipment. Special attention shall be given to sloping or shoring the sides of the excavation to make it stable.

STOP!

OSFM STSSs witness ALL testing of USTs before installation, the placement of USTs and all backfilling operations around USTs.

- G. To prevent flotation of USTs as a result of high water table or flooding, approved anchorage methods or ballasting shall be installed.
- H. Pipe trenches shall meet manufacturer's specifications and API 1615, Section 10.3.1, for depth, width, slope, spacing and placement of pipe within.

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- I. Pipe installation shall meet manufacturer's specifications and API 1615, Sections 9.3 and 9.4. Joint adhesive and thread sealant shall meet manufacturer's requirements for petroleum products, including ethanol or methanol blended gasoline.

STOP!

OSFM STSSs witness ALL air tests of pipe installation and examine any corrosion protection before backfilling of pipe trenches.

- J. Wiring of electric pumps and all electrical equipment in connection therewith shall conform to Chapter 5 of NFPA 70.

OSFM STSSs SHALL BE ON SITE TO WITNESS THE FINAL INSPECTION AND TESTING OF ALL EQUIPMENT AND MONITORING DEVICES.

STOP!

After all work has been completed and the system has been put into service, OSFM shall be notified so a final inspection can be made on leak detection equipment, spill and overfill equipment and the electrical system.

- K. Tank owners shall file the Notification of Underground Storage Tanks form with OSFM within 30 days after product is placed in the system.

- L. Contractors shall complete the manufacturer's installation checklist for USTs and piping and submit it to the manufacturer or owner, as applicable. The contractor shall maintain a copy of such checklist.

(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

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Section 170.APPENDIX B Checklist for Underground Storage Tank Reline

UST relines shall follow 41 Ill. Adm. Code 170 and any referenced material. The following checklist shall be adhered to as prescribed by the Office of the State Fire Marshal (OSFM) regulations, including adopted standards. These requirements do not exempt anyone from any other State or federal laws or regulations. Underground storage tank or "UST" includes underground pipes and cathodic protection connected thereto.

- A. Secure proper permitting and provide required notice of relining to OSFM.
- B. All monitoring equipment shall be maintained according to manufacturer's specifications.
- C. Establish an exclusion zone (within which smoking is prohibited). The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area.
- D. USTs to be relined shall be isolated from all distribution lines, siphons, manifolds and manifolded vent systems.
- E. Remove all liquids from the tank using explosion proof pumps or hand pumps.
- F. The tank atmosphere and the excavation area shall be regularly monitored with a combustible gas indicator, for flammable or combustible vapor concentration. Monitoring of the UST shall be done at 3 levels in the tank (top, middle and bottom).
- G. Vapor-freeing shall be done in accordance with API 1631 Section 2.4. When vapor-freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank, and the tank shall be grounded to a separate ground.

STOP!

OSFM Storage Tank Safety Specialists are to be on site before cutting and cleaning operations may proceed.

- H. If no manway exists, an opening with the minimum dimensions of 18" x 18" shall be cut in the top of the UST using non-sparking equipment.
- I. Personnel protective equipment shall be in accordance with API 1631 Section 3.2.2.
- J. Cutting, cleaning and application of lining material shall be done in accordance with manufacturer's specifications and OSFM requirements.

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- K. Before backfilling, the tank shall be tightness tested.

- L. Tank owners shall file an amended Notification of Underground Storage Tanks form with OSFM within 30 days after the tank has been relined.
(Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

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Section 170.APPENDIX C Checklist for Underground Storage Tank Removals

UST removals shall follow 41 Ill. Adm. Code 170 and any referenced material. The following checklist shall be adhered to as prescribed by the Office of the State Fire Marshal (OSFM) regulations, including adopted standards. These requirements do not exempt anyone from any other State or federal laws or regulations. Underground storage tank or "UST" includes underground pipes and cathodic protection connected thereto.

- A. Secure proper permitting and provide required notice of removal to OSFM.
- B. All monitoring equipment shall be maintained according to manufacturer's specifications.
- C. Establish an exclusion zone (within which smoking is prohibited). The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area.
- D. Excavate to the top of the tank, drain and remove all piping except the vent lines. Pipe trenches shall remain open for inspection by the OSFM Storage Tank Safety Specialist (STSS).
- E. Remove all liquids from the tank using explosion-proof pumps or hand pumps.
- F. The tank atmosphere and the excavation area shall be regularly monitored with a combustible gas indicator for flammable or combustible vapor concentration until the tank is removed from both the excavation and the site. Monitoring the UST shall be done at 3 levels in the tank (top, middle and bottom).
- G. Vapor freeing shall be done in accordance with API 1604 Section 4.2. When vapor-freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank, and the tank shall be grounded to a separate ground.
- H. Monitor tank to insure explosive conditions do not exit. Lower explosive limit (LEL) 5% or less or oxygen 5% or less shall be attained.
- I. Plug and cap all accessible tank holes. One plug should have a 1/8" vent hole.
- J. Excavate around the tank to prepare for removal.

STOP!

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OSFM STSSs are to be on site before cutting and cleaning operations or tank removal can proceed.

- K. Equipment with sufficient lifting capacity shall be used to lift the tank from the excavation.
 - L. Any UST removed from the excavation zone shall be cleaned on site the day of the removal, except as otherwise allowed in 41 Ill. Adm. Code 170.670.
 - M. A sufficient number of holes or openings shall be made in the tank for cleaning if existing tank openings are not adequate or for disposal, except as otherwise allowed in 41 Ill. Adm. Code 170.670. Continuous spark producing equipment will only be allowed when proper inerting procedures have been followed according to API 1604 Section 4.2.3.
 - N. Tank owner must file an amended Notification of Underground Storage Tanks form with OSFM within 30 days after the tank removal.
- (Source: Added at 19 Ill. Reg. 5467, effective APR 01 1995)

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Section 170. APPENDIX D Checklist for Abandonment-in-Place of Underground Storage Tanks

UST abandonment-in-place shall follow 41 Ill. Adm. Code 170 and any referenced material. The following checklist shall be adhered to as prescribed by the Office of the State Fire Marshal (OSFM) regulations, including adopted standards. These requirements do not exempt anyone from any other State or federal laws or regulations. Underground storage tank or "UST" includes underground pipes and cathodic protection connected thereto.

- A. Secure proper permitting and provide required notice of abandonment-in-place to OSFM.
- B. An on-site inspection shall be done to determine the accuracy of the Certification of Site Condition and the submitted site drawing. If this on-site inspection reveals that removal of any tanks will not cause structural damage, the abandonment-in-place permit will be voided and removal for such tanks shall be mandatory.
- C. All monitoring equipment shall be maintained according to manufacturer's specifications.
- D. Establish an exclusion zone (within which smoking is prohibited). The use of spark producing/non-explosion proof equipment is prohibited in the vapor hazard area.
- E. Excavate to the top of the tank, drain and remove **all** piping **except** the vent line. Any associated piping to be abandoned-in-place shall have prior approval by OSFM. Pipe trenches shall remain open for inspection by the OSFM Storage Tank Safety Specialist (STSS).
- F. Remove all liquids from the tank using explosion-proof pumps or hand pumps.
- G. The tank atmosphere and the excavation area shall be regularly monitored with a combustible gas indicator for flammable or combustible vapor concentration. Monitoring the UST shall be done at 3 levels in the tank (top, middle and bottom).
- H. Vapor-freeing **shall** be done in accordance with API 1604 Section 4.2. When vapor-freeing the tank with compressed air or using inert gases under pressure, all devices shall be bonded to the tank and the tank must be grounded to a separate ground.
- I. Monitor tank to insure explosive conditions do not exist. Lower explosive limits (LEL) 5% or less or oxygen 5% or less shall be attained.

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STOP!

OSFM STSSs are to be on site before cutting and cleaning operations or abandonment-in-place can proceed.

- J. A sufficient number of holes or openings shall be made in the tank for abandonment-in-place procedures if existing tank openings are not adequate.
- K. Proceed to introduce an approved, inert material through openings in the top of the tank to minimize any surface settling subsequent to disposal of the tank in-place.
- L. After the tank is filled with inert material, all tank openings shall be plugged or capped unless it was necessary to cut open the tank top. Disconnect and cap or remove the vent line.
- M. Tank owner shall file an amended Notification of Underground Storage Tanks form with OSFM within 30 days after the abandonment-in-place.

IF A RELEASE OF A REGULATED SUBSTANCE IS IDENTIFIED, the UST owner shall report such to Illinois Emergency Management Agency (IEMA) within 24 hours (1-800-782-7860 or outside Illinois 217-782-7860) and sample-taking/closure reports will have to comply with IEPA requirements for corrective action; except, if there is a release of a hazardous substance, it shall be reported to IEMA immediately.

(Source: Added at 19 Ill. Reg. **5467**, effective **APR 01 1995**)

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Section 170.APPENDIX E Guidelines for Marinas

Due to the unique characteristics of the site at marina locations, it is necessary to obtain more specific information for permit reviews in most cases.

1. Application and Particulars

- a. All the usual application procedures shall be followed, paying particular attention to each function that any equipment will be performing.
- b. Manufacturer specifications or statements may be necessary to establish location or system components and to verify operation of equipment under certain conditions.
- c. Special notes and explanations shall be given where applicable.
- d. Additional statements are sometimes required to substantiate ownership or consent from authorities having jurisdiction over the waterway.

2. Site Plans and Drawings

- a. All the normal site plan information will be necessary showing tanks, piping, vents, dispensers, property lines, buildings, sewers and setback distances from the UST system along with the dock location and configuration and any pertinent site characteristics.
- b. Detailed drawings may be necessary to show length and width of dock, type of construction, dispenser location and dispensing area along with profiles of the UST system indicating differences in elevation between tanks, piping and dispensers showing all valves, manholes, sumps, location of leak detection equipment, anti-siphon devices, pressure relief valve, pipe chases, sewage lines, etc. High water, low water and normal pool elevations shall also be given in relation to tank, piping and dispensers.

3. Leak Detection

- a. Leak detection shall be designed to suit the particular installation.
- b. Double-wall piping with continuous monitoring is recommended in most situations; although, single-wall systems will be sufficient in cases where the characteristics of the system are not too extreme.

4. Piping

- a. Anti-siphon devices such as solenoid valves shall be required in cases where the piping slopes downward from the tank.

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- b. A manual shut-off shall be required on shore where the piping approaches the dock.
- c. Floating docks shall require flexible lines from shore to dock. Any product supply hose shall have secondary containment. Rigid piping shall be required on the dock (flexible primary shall require rigid secondary containment piping). Flexible connectors shall be required at dock hinge points for rigid primary.
- d. All aboveground piping shall have proper hangers or mounts and shall be protected from physical damage.

5. Fueling Equipment

- a. Breakway couplings shall be required on dispensing hoses.
- b. A mechanical return reel shall be required for hose lengths in excess of 18 ft.
- c. Dispenser nozzles shall be of the automatic closing type and hold-open clips shall not be allowed.
- d. Shear valves shall be required under dispensers.
- e. Spill containment shall be required under dispensers.
- f. Collision barriers shall be installed for dispensers where necessary.

6. Other

Marine service stations shall be of the attended type only. Self-service is prohibited.

(Source: ~~AdApp~~ 01 1995 19 Ill. Reg. 5467, effective)

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Section 170.TABLE A Schedule for Phase-In of Release Detection

Year system was installed	1989	1990	1991	1992	1993
Before 1965 or date unknown.....	RD*	P			
1965-69.....		P/RD			
1970-74.....		P	RD		
1975-79.....		P		RD	
1980-88.....		P			RD

New tanks (on or after April 21, 1989) immediately upon installation.

~~*Except for heating oil tanks and emergency power generator tanks, the first year when release detection is required is 1990.~~

~~*The first year when release detection is required for emergency power generator tanks is 1990. The first year when release detection is required for heating oil tanks for consumptive use on the premises where stored is 1998.~~

~~P=Must~~Shall begin release detection for all pressurized piping in accordance with Sections 170.510(b)(1) and 170.520(b)(4).

~~RD=Must~~Shall begin release detection for tanks and suction piping in accordance with Sections 170.510(a) and (b)(2) and 170.520.

(Source: ~~Amended~~ APR 01 1995 19 Ill. Reg. 5467 1, effective)

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1) Heading of the Part: Aid to Families with Dependent Children

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Numbers: Adopted Action:
112.110 Amendment
112.151 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/Art. 12-13]

5) Effective Date of Amendments: March 31, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Do these Amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: March 31, 1995

9) Notice of Proposal Published in Illinois Register: October 21, 1994 (18 Ill. Reg. 15495)

10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No

11) Differences between proposal and final version: The following changes have been made to the text of the proposed amendments:

1. A period has been added at the end of the AUTHORITY.
2. The SOURCE has been updated with the October Amendment "18 Ill. Reg. 15774, effective October 17, 1994".
3. In Section 112.110(a)(8), the "v" in "Volunteers has been changed to the lower case.
4. In Section 112.110(a)(14), "Pribil of" has been changed to "Pribilof" and "thru" has been changed to "through".
5. In Section 112.110(a)(21), the final period has been replaced by ";".
6. In Section 112.110(a)(22), "under P.A. 86-921" has been inserted after "Children".
7. In Section 112.110(a)(24), "For those individuals not on an AFDC case" has been changed to "For those individuals not in an AFDC

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15) Summary and Purpose of Amendments: These amendments revise the rules to add several new exempt items, to clarify several current exempt items and to reorganize the provisions to facilitate the use of the Section by recipients and applicants as well as Department personnel. As a result of this rulemaking, the rules on exempt unearned income will be classified into categories with the most frequently used and most significant provisions placed before less frequently used and less significant provisions. This rule change is being made as an update and to ensure that present manual policy on income and asset exemptions are included in the rules.

The following table indicates how current provisions have been reorganized in the proposed amendments:

<u>Proposed Provisions</u>	<u>Current Provisions</u>
subsection (a)(1)	subsection (a)
subsection (a)(2)	subsection (b)
subsection (a)(3)	subsection (c)
subsection (a)(4)	subsection (d)
subsection (a)(5)	subsection (e)
subsection (a)(6)	subsection (h)(1)
subsection (a)(7)	subsection (g)
subsection (a)(8)	subsections (f) and (h)(3)
subsection (a)(9)	subsection (i)
subsection (a)(10)	subsection (k)
subsection (a)(11)	subsection (m)
subsection (a)(12)	subsection (n)
subsection (a)(13)	subsection (q)
subsection (a)(14)	subsection (r)
subsection (a)(15)	subsection (s)
subsection (a)(16)	subsection (t)
subsection (a)(17)	subsection (u)
subsection (a)(18)	subsection (w)
subsection (a)(19)	subsection (x)
subsection (a)(20)	subsection (y)
subsection (a)(21)	subsection (z)
subsection (a)(22)	new
subsection (a)(23)	new
subsection (a)(24)	new
subsection (b)(1)	subsection (j)
subsection (b)(2)	subsection (l)
subsection (b)(3)	subsection (p)
subsection (b)(4)	subsection (v)
subsection (b)(5)	new
subsection (b)(6)	new

16) Information and questions regarding these Adopted Amendments shall be

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- assistance unit" and "e.g." has been replaced by "for example,".
8. In Section 112.151(a)(7), "one time" has been hyphenated.
9. In Section 112.151(a)(10), "e.g." has been replaced by "that is".
10. In Section 112.151(a)(11), a comma has been inserted after "for example".
11. In Section 112.151(b)(6), the strikeouts have been removed so that the federal cite remains.
12. In Section 112.151(b)(8), the "v" in "Volunteers" has been changed to the lower case.
13. In Section 112.151(b)(10), a comma has been inserted after "\$5,000".
14. In Section 112.151(b)(11), "thru" has been changed to "through".
15. In Section 112.151(b)(12), "thru" has been changed to "through".
16. In Section 112.151(b)(13), "one time" has been hyphenated.
17. Section 112.151(b)(17) has been revised as follows: "Barnmarked child support payments received by a client for the support of a child not included in the assistance unit.".
18. Section 112.151(b)(18) has been revised as follows: "Payments received under the Radiation Exposure Act.".
19. Section 112.151(b)(19) has been deleted.

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect?
No

14) Are there any Amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
112.148 Amendment		January 27, 1995 (19 Ill. Reg. 804)
112.300 Amendment		January 27, 1995 (19 Ill. Reg. 804)
112.306 Amendment		January 27, 1995 (19 Ill. Reg. 804)

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112
AID TO FAMILIES WITH DEPENDENT CHILDREN
SUBPART A: GENERAL PROVISIONS

Section
112.1 Description of the Assistance Program
112.5 Incorporation by Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
112.8 Caretaker Relative
112.9 Client Cooperation
112.10 Citizenship
112.20 Residence
112.30 Age
112.40 Relationship
112.50 Living Arrangement
112.52 Social Security Numbers
112.54 Assignment of Medical Support Rights
112.60 Lack of Parental Support or Care
112.61 Death of a Parent
112.62 Incapacity of a Parent
112.63 Continued Absence of a Parent
112.64 Unemployment of the Parent

SUBPART C: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

Section
112.70 Participation Requirements for JOBS
112.71 Individuals Exempt from JOBS
112.72 JOBS Participation/Cooperation Requirements
112.73 Failure to Participate with the Work Incentive Demonstration Program (Renumbered)
112.74 JOBS Initial Assessment Process/Development of an Employability Plan
112.76 JOBS-Orientation
112.77 Conciliation and Fair Hearings
112.78 JOBS Components
112.79 JOBS Sanctions
112.80 Good Cause for Failure to Comply with JOBS Participation Requirements
112.81 Responsible Relative Eligibility For JOBS
112.82 JOBS Supportive Services
112.83 Young Parents Program
112.84 Work Experience Evaluation Project
112.85 Four Year College/Vocational Training Demonstration Project

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directed to:

Name: Judy Umunna
Address: Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

SUBPART E: PROJECT ADVANCE

Section	
112.86	Project Advance
112.87	Project Advance Experimental and Control Groups
112.88	Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers
112.89	Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers
112.90	Project Advance Sanctions
112.91	Good Cause for Failure to Comply with Project Advance
112.93	Individuals Exempt From Project Advance
112.95	Project Advance Supportive Services

SUBPART F: EXCHANGE PROGRAM

Section
112.98

Exchange Program

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section

112.100	Unearned Income
112.101	Unearned Income of Stepparent or Parent
112.105	Budgeting Unearned Income
112.106	Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision
112.107	Initial Receipt of Unearned Income
112.108	Termination of Unearned Income
112.110	Exempt Unearned Income
112.115	Education Benefits
112.120	Incentive Allowances
112.125	Unearned Income In-Kind
112.126	Earmarked Income
112.127	Lump Sum Payments
112.128	Protected Income
112.130	Earned Income
112.131	Earned Income Tax Credit
112.132	Budgeting Earned Income
112.133	Budgeting Earned Income of Applicants Employed On Date of Application And/Or Date Of Decision

112.134	Initial Employment
112.135	Budgeting Earned Income For Contractual Employees
112.136	Budgeting Earned Income For Non-Contractual School Employees
112.137	Termination of Employment
112.138	Transitional Payments
112.140	Exempt Earned Income
112.141	Earned Income Exemption
112.142	Exclusion From Earned Income Exemption

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SUBPART H: PAYMENT AMOUNTS

112.143	Recognized Employment Expenses
112.144	Income From Work/Study/Training Program
112.145	Earned Income From Self-Employment
112.146	Earned Income From Roomer and Boarder
112.147	Income From Rental Property
112.148	Payments from the Illinois Department of Children and Family Services
112.149	Earned Income In-Kind
112.150	Assets
112.151	Exempt Assets
112.152	Asset Disregards
112.153	Deferral of Consideration of Assets
112.154	Property Transfers
112.155	AFDC Income Limit

SUBPART I: OTHER PROVISIONS

Section

112.250	Grant Levels
112.251	Payment Levels in AFDC
112.252	Payment Levels in AFDC Group I Counties
112.253	Payment Levels in AFDC Group II Counties
112.254	Payment Levels in AFDC Group III Counties

SUBPART J: CHILD CARE

Section

112.300	Persons Who May Be Included in the Assistance Unit
112.301	Presumptive Eligibility
112.302	Monthly Reporting
112.303	Retrospective Budgeting
112.304	Budgeting Schedule
112.305	Strikers
112.306	Foster Care Program
112.307	Responsibility of Sponsors of Aliens
112.308	Special Needs Authorizations
112.309	Institutional Status
112.315	Young Parent Program (Renumbered)
112.320	Redetermination of Eligibility
112.330	Twelve Month Extension of Medical Assistance Due to Increased Income from Employment
112.331	Four Month Extension of Medical Assistance Due to Child Support Collections
112.332	Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
112.340	New Start Payments to Individuals Released from Department Corrections Facilities

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Section
 112.350 Child Care
 112.352 Child Care Eligibility
 112.354 Qualified Provider
 112.356 Notification of Available Services
 112.358 Participant Rights and Responsibilities
 112.362 Additional Service to Secure or Maintain Child Care Arrangements
 112.364 Rates of Payment for Child Care
 112.366 Method of Providing Child Care
 112.370 Non-JOBS Education and Training Program

SUBPART K: TRANSITIONAL CHILD CARE

Section
 112.400 Transitional Child Care Eligibility
 112.404 Duration of Eligibility for Transitional Child Care
 112.406 Loss of Eligibility for Transitional Child Care
 112.408 Qualified Child Care Providers
 112.410 Notification of Available Services
 112.412 Participant Rights and Responsibilities
 112.414 Child Care Overpayments and Recoveries
 112.416 Fees for Service for Transitional Child Care
 112.418 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 4-1 et seq. and 12-13) [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective

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September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982, amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984 for a maximum of 150 days; amended at 8

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Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective July 10, 1987; emergency amendment at 11 Ill. Reg. 12432, 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; emergency amendment at 13 Ill. Reg. 16142, effective

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October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 16006, effective October 6, 1989; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11852, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 509, effective MAY 31 1995.

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section 112.110 Exempt Unearned Income

- a) The following unearned income from governmental sources shall be exempt from consideration in determining eligibility and the level of assistance payment:
- a1) The value of the coupon allotment under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
- b2) The value of the U.S. Department of Agriculture donated foods (surplus commodities);

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- e73)** Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4636);
- e74)** Any funds distributed per capita to or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134, P.L. 94-114 or P.L. 94-540;
- e75)** Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 U.S.C. 3045 et seq.);
- e76)** Any compensation provided to individual volunteers under the Volunteers in Service to America (VISTA) Program; ~~Retired-Senior Volunteer-Program--and--the-Pepper-Stand-Program--and--Other Americans-Community-Service-Programs-established-under--Title-II of-the-Domestic-Volunteer-Service-Act--as-amended--(42-U.S.C. 4951 et seq.)~~
- e77)** Income received under the provisions of Section 4(c) of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (Ill. Rev. Stat. 1991, ch. 67 1/2, par. 404(c)) [320 ILCS 25/4(c)]. This includes both the benefits commonly known as the circuit breaker and additional grants;
- h78)** Payments ~~to--volunteers--under--the--1973--Domestic--Volunteer Service-Act--(48-U.S.C. 5044-f))--These include: for supporting services or reimbursement for out-of-pocket expenses made to volunteers serving as senior health aides, senior companions, foster grandparents, and persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of P.L. 93-113;~~
- h79)** ~~Vista-Volunteers;~~
- h80)** ~~Volunteers--serving-as-senior-health-aides--senior-companions--or foster-grandparents;~~
- h81)** ~~Persons-serving-in-the--Service-Corps--of--Retired--Executives (SCORE) or the Active Corps of Executives (ACE);~~
- h82)** ~~Unearned income such as need based payments, cash assistance, compensation in lieu of wages and allowances received through the Jobs Training Partnership Act;~~
- h83)** ~~Inconsequential--income--which--is--defined-as-gifts--prizes--or-other unearned-income--excluding--those-unearned-income-items--referred--in subsections--(a)--through--(f)--above)--of--up--to--\$30-per-person-per quarter;~~
- h84)** ~~Social Security death benefit expended on a funeral and/or burial;~~
- h85)** ~~The-value-of-home-produce-which-is-used-for-personal-consumption;~~
- h86)** ~~The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended (42 U.S.C. 1780(b)) and the special food service program for children under the National School Lunch Act, as amended (42 U.S.C. 1760);~~
- h87)** ~~Tax exempt portions of payments made pursuant to the Alaska~~

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- e73)** Native Claims Settlement Act (43 U.S.C. 1626);
- e74)** ~~Experimental-Housing-Allowance--Program--Payments--made--under--Annual Contributions--Contracts--entered--into--prior-to-January-17-1975--under Section-23-of-the-U.S.-Housing-Act-of-1937--as-amended--(42-U.S.C. 1437-f))~~
- e75)** ~~Child-support-payments-made--to-an-assistance-unit--by--the--Department which--represents--the--first--\$50--or--any--less--amount--of-support collected--in-a-month;~~
- e76)** ~~Payments received under Title I of P.L. 100-383 of the Civil Liberties Act of 1988 (50 U.S.C. 1989b thru 1989b-8);~~
- e77)** ~~Payments received under Title II of P.L. 100-383 of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. 1989c thru 1989c-8);~~
- e78)** ~~Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201;~~
- e79)** ~~Payments received under the Radiation Exposure Compensation Act;~~
- e80)** ~~Federal subsidized housing payments under Section 8 of the Housing and Community Development Act of 1974--effective-January-17-1975--of-the-U.S.-Housing-Act-of-1937--as-amended;~~
- e81)** ~~Payments--from--the--principal--or--trust--of--a--trust--fund--made--to--or--on behalf--of--a--dependent--child--when--the--court--orders--the--money--released for--a--specific--purpose--other--than--the--income-maintenance-needs--of--the child;~~
- e82)** ~~Any adoption subsidy payment or foster care payment received from DCFS or from a state welfare agency of another state are exempt for MAG and MANG. Independent Living Arrangement Payments are not exempt for MAG and MANG Adoption subsidy on--foster--care payments--received--from--the--Department--of--Children--and--Family Services--(DCFS);~~
- e83)** ~~Supportive Service payments made by the Job Opportunities and Basic Skills Training (JOBS) Program to any JOBS Project--Chance to-Any-Project--Chance participant (Section 112.82);~~
- e84)** ~~Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to Section 2605(f) of P.L. 97-35; and~~
- e85)** ~~Disaster relief payment payments provided by federal, state or local government or a disaster assistance organization;~~
- e86)** ~~Any payment provided by the Department of Mental Health and Developmental Disabilities (DMHDD) under the Family Assistance Program for Mentally Disabled Children under P.A. 86-921;~~
- e87)** ~~GA Emergency Financial Assistance issued through vendor payment. These payments can only be issued once in a twelve-month period to persons who do not currently receive AFDC cash assistance; and~~
- e88)** ~~A non-recurring lump sum SSI payment (for example, Zebley~~

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Payment) made to an individual in an AFDC assistance unit. For those individuals not in an AFDC assistance unit whose income is used to determine AFDC eligibility for others (for example, stepparents, parents), the lump sum payment is nonexempt income for the month received.

b) In addition to the above, the following unearned income from non-governmental sources shall be exempt from consideration in determining eligibility and the level of assistance payment:

1) Inconsequential income, which is defined as gifts, prizes or other unearned income (excluding those unearned income items referenced in subsections (a)(1) through (a)(24) described in other provisions of the Section) of up to \$30.00 per person per quarter;

2) The value of home produce which is used for personal consumption;

3) Child support payments made to an assistance unit by the Department which represents the first \$50 or any lesser amount of support collected in a month;

4) Payments from the principal or trust of a trust fund made to or on behalf of a dependent child when the court orders the money released for a specific purpose other than the income maintenance needs of the child;

5) Earmarked child support payments received by the client for the support of a child not included in the assistance unit; and

6) Cash which is exchanged for purposes of satisfying payment of shelter-related obligations in situations where the assistance unit shares a dwelling unit with another family, individual or individuals. The money is not available to meet the needs of the party who received and disburses the shelter-related payment.

(Source: Amended at 19 Ill. Reg. 5609, effective MAR 31 1995.)

Section 112.151 Exempt Assets

a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:

- 1) A home which is the usual residence of the assistance unit.
- 2) Clothing, personal effects and household furnishings.
- 3) One automobile if the equity value does not exceed \$1500.
- 4) The value of the coupon allotment under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).
- 5) The value of the U.S. Department of Agriculture donated foods (surplus commodities).
- 6) The value of supplemental food assistance received under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) as amended, and the special food service program for children under the National School Lunch Act (42 U.S.C. 1751 et seq.), as amended.
- 7) The principal and interest of a trust fund which, upon petition,

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the court refuses to release and one-time only payments released for a specific purpose other than income maintenance needs of the child.

8) Burial plots.

9) Prepaid Funeral Agreements worth \$1500 or less per person.

10) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (non-governmental that is, not available to the client or the responsible relative) over the donations or benefits or the disbursement of the donations or benefits.

11) A non-recurring lump sum SSI payment (for example, Zebley Payment) made to an individual in an AFDC assistance unit is exempt as an asset for the month of receipt and the following month. For the third month, any remainder must be counted as a nonexempt asset.

b) In addition to the above, the following assets are exempt. The assets listed in this subsection (b) remain exempt only as long as they can be separately identified if they are added to an existing account. If the amount of combined assets at any time, from the time of the receipt of the exempt asset or assets until the date of the eligibility determination or redetermination, fall below the amount of the exempted assets, only the lowest balance remains exempt.

- 1) The assets of a stepparent for purposes of determining the stepchild's eligibility.
- 2) Any benefits received under Title VII, Nutrition Program for the Elderly of the Older Americans Act of 1965 (42 U.S.C. 3045 et seq.), as amended.
- 3) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).
- 4) Any payments distributed per capita or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134 or P.L. 94-540.
- 5) Tax-exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).
- 6) Federally subsidized housing payments under Section 8 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), effective January 1, 1975, of the U.S. Housing Act of 1937, as amended.
- 7) Effective October 17, 1975, receipts distributed to certain Indian Tribal members of marginal land held by the United States government.
- 8) Payments for supporting services or reimbursement for out-of-pocket expenses made to volunteers serving as senior health aides, senior companions, foster grandparents, and persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under

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- Titles II and III, pursuant to Section 418 of P.L. 93-113.
- 8) ~~Payments--to Volunteers under the 1973-Bonesteel-Volunteer-Service Act--(42-U.S.C.--4951-et-seq)--these include:~~
- A) ~~Volunteers in Service--Po--America--(Vista)--volunteers--(42 U.S.C.--4951-et-seq)--~~
- B) ~~Volunteers serving as senior health aides--senior companions--foster--grandparents or persons serving in the Service Corps of Retired Executives--(SCORP)--(45-U.S.C.--637-et-seq)--and Active Corps of Executives--(ACE)--(45-U.S.C.--637-et-seq)--~~
- 9) Any grant or loan to an undergraduate student for educational purposes made or insured under any programs administered by the Commissioner of Education.
- 10) For those individuals who have approved self-employment plans under Section 112.78, business assets must be separate from personal assets. Business assets are those assets that are directly related to producing goods and services that have been purchased after the business begins or as part of an approved self-employment plan (see Section 112.78). Business assets are considered exempt unless it is determined that the equity value (the value for which the asset can be sold less any amount owned on the asset) exceeds \$1,000. If the assets are determined to exceed \$1,000 but are less than \$5,000, the case is to be referred to the Bureau of AFDC JOBS Administration for review to ensure that the assets in excess of \$1,000 are appropriate as business assets. A determination of business assets will be completed two years after the plan is approved.
- 11) Any payments received under Title I of P.L. 100-383 of the Civil Liberties Act of 1988 (50 U.S.C 1989b ~~thru~~ through 1989b-8).
- 12) Any payment received under Title II of P.L. 100-383 of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. 1989c ~~thru~~ through 1989c-8).
- 13) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201.
- 14) Payments made by the Illinois Department of Mental Health and Developmental Disabilities under the Family Assistance Program for Mentally Disabled Children under ~~the Developmental Disabilities Services--Law--(405-ILCS-80)~~ P.A. 86-921.
- 15) Assets accumulated from income earned through employment under the federal "Health Start" Project.
- 16) Disaster relief payments provided by federal, state or local government or a disaster assistance organization.
- 17) Earmarked child support payments received by a client for the support of a child not included in the assistance unit.
- 18) Payments received under the Radiation Exposure Compensation Act.

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(Source: Amended at 19 Ill. Reg. 5309, effective MAR 31 1995)

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- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Numbers: Adopted Action:
 121.160, 121.162, 121.164 Amendment
 121.166, 121.170, 121.172 Amendment
 121.174, 121.176, 121.178 Amendment
 121.180, 121.182, 121.184 Amendment
 121.186, 121.188, 121.190 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 12-13)[305 ILCS 5/12-13]
- 5) Effective Date of Amendments: March 31, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 31, 1995
- 9) Notice of Proposal Published in Illinois Register:
 October 21, 1994 (18 Ill. Reg. 15510)

- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No

- 11) Differences between proposal and final version: The following changes have been made to the text of the proposed amendments:

In Section 121.160(b)(12), "6-1" was changed to "Art. VI".

In Section 121.164(d)(2), "Orientation" was changed to the lower case.

In Sections 121.166(b)(2), 121.166(b)(3) and 121.166(d), "182" was changed to "121.182".

In Section 121.182(c)(2), "state" was capitalized.

In Section 121.186(a)(11), "of" was changed to "or".

At the end of Section 121.188(c), the phrase "to the extent it is consistent with the employability plan established during the individual's assessment" was added.

No other changes have been made in the text of the proposed amendments.

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect?
 No
- 14) Are there any Amendments pending on this Part? Yes
- | Sections | Proposed Action | Illinois Register Citation |
|----------|-----------------|--|
| 121.58 | Amendment | December 23, 1994 (18 Ill. Reg. 17952) |
| 121.91 | Amendment | December 23, 1994 (18 Ill. Reg. 17952) |
| 121.92 | Amendment | December 23, 1994 (18 Ill. Reg. 17952) |
| 121.120 | Amendment | December 23, 1994 (18 Ill. Reg. 17952) |
- 15) Summary and Purpose of Amendments: These amendments revise the rules to clarify that Food Stamp Employment and Training participation is not required in a component if the individual's monthly allowable supportive service expenses exceed the maximum amount allowed by Department policy but may be required in another appropriate component or activity. This rulemaking also clarifies that supportive service costs will not include the cost of meals away from home. In addition, these proposed amendments establish that transportation will be provided to enable individuals to attend conciliation meetings. The rules are also updated to reflect current policy that clients can be sanctioned regardless of whether an assessment has been completed.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Judy Umunna
Address: Bureau of Rules and Regulations
 Illinois Department of Public Aid
 100 South Grand Avenue East, Third Floor
 Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121

FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section	
121.1	Application for Assistance
121.2	Time Limitations on the Disposition of an Application
121.3	Approval of an Application and Initial Authorization of Assistance
121.4	Denial of an Application
121.5	Client Cooperation
121.6	Emergency Assistance
121.7	Expedited Services
121.10	Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.19	Ending a Voluntary Quit Disqualification
121.20	Citizenship
121.21	Residence
121.22	Social Security Numbers
121.23	Work Registration/Participation Requirements (Repealed)
121.24	Individuals Exempt From Work Registration Requirements (Repealed)
121.25	Failure to Comply (Repealed)
121.26	Period of Disqualification (Repealed)
121.27	Voluntary Job Quit
121.28	Good Cause for Voluntary Job Quit
121.29	Exemptions from Voluntary Quit Rule

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder

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121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions From Monthly Income
121.64	Coupon Allotment

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA
	Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section	
121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)
121.84	Disqualification Upon Finding of Fraud (Renumbered)
121.85	Court Imposed Disqualification (Renumbered)
121.90	Monthly Reporting and Retrospective Budgeting
121.91	Monthly Reporting
121.92	Retrospective Budgeting
121.93	Direct Mail Issuance of Food Stamp Coupons
121.94	Replacement of Food Stamp Coupons
121.95	Restoration of Lost Benefits
121.96	Uses For Food Coupons
121.97	Supplemental Payments
121.98	Food Stamp Simplified Application Demonstration Project (Repealed)
121.120	Recertification of Eligibility
121.130	Residents of Shelters for Battered Women and their Children

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121.135 Incorporation By Reference
 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section
 121.150 Definition of Intentional Violations of the Program
 121.151 Penalties for Intentional Violations of the Program
 121.152 Notification To Applicant Households
 121.153 Disqualification Upon Finding of Intentional Violation of the Program
 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section
 121.160 Persons Required to Participate
 121.162 Participation and Cooperation Requirements
 121.164 Orientation
 121.166 Assessment and Employability Plan
 121.170 Job Search Component
 121.172 Basic Education Component
 121.174 Job Readiness Component
 121.176 Work Experience Component
 121.178 Job Training Component
 121.180 Grant Diversion Component
 121.182 Earnfare Component
 121.184 Sanctions
 121.186 Good Cause for Failure to Cooperate
 121.188 Supportive Services
 121.190 Conciliation and Fair Hearings
 121.200 Types of Claims (Recodified)
 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
 121.203 Collecting Claim Against Households (Recodified)
 121.204 Failure to Respond to Initial Demand Letter (Recodified)
 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
 121.206 Determination of Monthly Allotment Reductions (Recodified)
 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
 121.208 Suspension and Termination of Claims (Recodified)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 12-4.4 through 12-4.6 and 12-13) [305 ICS 5/12-4.4 through 12-4.6 and 12-13].

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SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875 effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 3, 48, p. 1; effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amended at 4 Ill. Reg. 29, p. 294, effective July 8, 1980 for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983, peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill.

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Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendments at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; amended at 18 Ill. Reg. 3427, effective February 28, 1994;

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amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective MAR 31 1995.

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section 121.160 Persons Required to Participate

- a) All individuals receiving food stamps who are not exempt will be required to participate in the Food Stamp Employment and Training program, to the extent resources are available. This includes, in priority order:
 - 1) Individuals who meet the eligibility requirements for Transitional Assistance but who are "employable". These individuals may volunteer for Earnfare or may, if resources are available, be required to participate in other Food Stamp Employment and Training activities;
 - 2) Recipients of Transitional Assistance;
 - 3) Nonexempt ~~Non-exempt~~ clients receiving Family and Children Assistance may be required to participate in the Food Stamp Employment and Training program. See 89 Ill. Adm. Code 112.70 through 112.76 for requirements for these clients; and
 - 4) All other nonexempt ~~non-exempt~~ food stamp recipients not receiving AFDC or Refugee Assistance.
- b) Those individuals exempt from the Food Stamp Employment and Training program are (however, individuals may volunteer to participate):
 - 1) Individuals age 55 or over;
 - 2) Persons who are participating in a substance abuse treatment program or who are on a waiting list for such a program;
 - 3) Individuals who are homeless. Homeless in this instance is someone who has no current address and no expectation of acquiring a residence in the next ~~thirty~~-t 30+ days. It excludes individuals living with friends or relatives on a continuous basis. It includes individuals in overnight transitional shelters. Under this category of exemption, if the individual remains homeless after ~~twelve~~-t 12+ months, the individual is deemed no longer exempt from program participation, unless exempt under a different category;
 - 4) Individuals who are chronically ill, as determined by a physician or licensed/certified psychologist who finds that a physical or mental impairment, either by itself or in conjunction with age or other factors, prevents the person from engaging in employment or participating in the Food Stamp Employment and Training Program;
 - 5) Persons who are temporarily ill, for the medically documented period of the illness;
 - 6) Individuals who have another household member who requires the full-time care of the individual;

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- 7) Individuals who are under 16 years of age;
- 8) Individuals age 16 or 17 who are not the head of a household or who are attending school or are enrolled in a training program on at least a half time basis;
- 9) Students enrolled at least half time in any recognized school, training program, or institution of higher education; provided that students enrolled at least half time in an institution of higher education have met the eligibility conditions as defined at 7 CFR 273.5. A student enrolled in a school, training program or institution of higher education shall remain exempt during normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer);
- 10) Individuals who are employed or self-employed and working a minimum of ~~thirty~~-30 hours per week or receives earnings equal to or greater than 30 times the Federal Minimum Wage;
- 11) Individuals receiving unemployment insurance or individuals who have applied for unemployment insurance if the person was required to register for work with Job Service as part of the unemployment compensation application process; and
- 12) Persons who are full-time VISTA volunteers under Title I of the 1973 Domestic Volunteer Services Act (42 U.S.C. 4951 et seq.) who were recipients of public assistance under Article VI of the Illinois Public Aid Code (~~Ill-Rev-Stat--1991--ch--237--pars-6-1 et--seq--~~ [305 ILCS 5/Art. VI] when they joined VISTA, or are full-time volunteers under Title II of the Act (15 U.S.C. 637 et seq.), which includes foster grandparents, senior health aides, senior companions, or persons serving in the Senior Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).

(Source: Amended at 19 Ill. Reg. 5626, effective March 31 1995.)

Section 121.162 Participation and Cooperation Requirements

- a) To the extent resources allow, the Department shall establish employment, education and training programs for food stamp recipients in the Food Stamp Employment and Training program. All Food Stamp Assistance recipients not exempt under Section 121.160(b) may be required to participate and cooperate in the Food Stamp Employment and Training program to the extent resources allow. The individual will be given the participation requirements in writing for each component to which the individual is assigned. These components include:
 - 1) Basic Education (see Section 121.172);
 - 2) Job Training (see Section 121.178);
 - 3) Job Search (see Section 121.170);
 - 4) Work Experience (see Section 121.176);

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- 5) Job Readiness (see Section 121.174);
- 6) Grant Diversion (see Section 121.180); and
- 7) Earnfare (see Section 121.182), which is limited to employable individuals who are otherwise eligible for Transitional Assistance and who volunteer for the Earnfare component.
- b) The individual may be required to participate in such employment and training programs for up to five ~~57~~ days per week and ~~thirty~~-30 hours per week, up to a maximum of 120 hours per month.
- c) An individual is required to participate in the Food Stamp Employment and Training program by:
 - 1) Cooperating with the Food Stamp Employment and Training program. Cooperation with the Food Stamp Employment and Training program is defined as providing information on the individual's background, education level, and work history as well as factors affecting employability or ability to meet participation requirements (including health, physical or mental limitations, family problems, and any other related factors), appearing for scheduled meetings, and complying with the requirements of the Food Stamp Employment and Training program components identified in Sections 121.170 through 121.182.
 - 2) Job Contacts in Job Search. Individuals are required to make ~~twenty~~-20 acceptable employer contacts in every ~~thirty~~-30 calendar days while in the Job Search component.
 - A) Ten ~~thirty~~ of the ~~twenty~~-20 required contacts must be either:
 - i) the completion and return of an application; or
 - ii) a face-to-face interview with an employer.
 - B) The remaining ten ~~thirty~~ contacts may be any combination of the following:
 - i) the completion and return of an application;
 - ii) A face-to-face interview with an employer;
 - iii) the completion of a civil service test required for employment with the State, Local, or Federal Government;
 - iv) the completion of a Job Service screening test;
 - v) the mailing of a resume with a covering letter to an employer;
 - vi) for union members in good standing, reporting to the union hall;
 - vii) reporting to a day labor hall; or
 - viii) reporting for temporary office service.
- C) Acceptable contacts are documented by written statements provided to the Food Stamp Employment and Training worker by the individual. The Food Stamp Employment and Training worker may verify the job contacts by contacting the employer.
- D) No individual shall be sanctioned and/or have Food Stamps disqualified for failure to make the appropriate number of

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job contacts if the individual has made a good faith effort to make the job contacts. Whether an individual has made a good faith effort to make the required number and types of contacts is based on all the facts and circumstances of each case. Good faith effort exists when circumstances beyond the control of the individual prevent the individual from making the required number of contacts. Good faith effort may include, but is not limited to the following:

- i) the individual appears for a scheduled interview and the employer misses the appointment;
- ii) the individual has fewer than ~~twenty~~ 20+ contacts and/or fewer than ten ~~ten~~ interviews or applications, but came reasonably close to the required numbers in an effort to find work;
- iii) the individual fails a civil service or other employment screening test;
- iv) the individual completes an application which is not accepted by the employer; and
- v) the individual's job search performance indicates that the individual should be in a different Food Stamp Employment and Training component or in a rehabilitation program or should be evaluated by the Client Assessment Unit as potentially eligible for SSI.

3) Responding to a job referral of suitable employment (~~the~~ such as, a written statement referring a mandatory registrant to an employer for a specific position).

4) Accepting a bona fide offer of suitable employment. An individual must be given the opportunity to explain why an offer of employment was not accepted.

A) A bona fide offer of suitable employment is where there was a definite offer of employment substantiated by confirmation from the prospective employer at wages meeting any applicable minimum wage requirements and which are customary for such work in the community, based on information obtained from the Department of Employment Security; and

B) Suitable employment must meet the following requirements:

- i) there are no questions as to the mandatory registrant's inability to engage in such employment for medical reasons or because he has no way to get to or from the particular job;
- ii) there are no questions of working conditions, such as risks to health, safety, or lack of worker's compensation protection;
- iii) wages offered must be at least the Federal minimum wage, the State minimum wage, or \$4.25 per hour (if neither the Federal nor State minimum wage is applicable);

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- iv) if the wages are offered on a piece-rate basis, the amount the individual can reasonably be expected to earn must equal the wages as outlined in subsection (c)(4)(B)(iii) of this Section ~~above~~;
- v) the mandatory registrant may not be required, as a condition of employment, to join, resign from, or refrain from joining any legitimate labor organization;
- vi) there is no unreasonable degree of risk to the mandatory registrant's health and safety; and
- vii) the mandatory registrant is physically and mentally competent to perform the work.

5) Registering and appearing for any subsequent interviews at the Department of Employment Security's Job Service offices.

d) Food Stamp Employment and Training participants who are employed must:

- 1) Continue their employment; and
- 2) Not reduce their employment (~~the~~ for example, voluntarily reducing work hours).

e) Failure to participate or cooperate with the Food Stamp Employment and Training requirements listed in this Section will result in a food stamp disqualification and/or financial sanction as outlined in Section 121.184.

(Source: Amended at 19 Ill. Reg. 5626, effective MAR 31 1995)

Section 121.164 Orientation

a) The Department shall arrange for individuals to receive a program orientation and an assessment to develop an employability plan. The orientation may be conducted by a provider of training or employment programs. When the orientation is scheduled by the Department, individuals will be sent a letter from the Department which includes the following information:

- 1) the fact of the individual's registration;
 - 2) the right to request an exemption;
 - 3) a complete description of all available exemptions;
 - 4) the date and time of the meeting;
 - 5) a description of the program and the purpose of the meeting;
 - 6) the consequences of failing to attend;
 - 7) the right to reschedule the appointment with good cause;
 - 8) the right to request transportation services to attend; and
 - 9) the printed name of the worker to contact for such purposes.
- b) In an orientation meeting, individuals will receive an explanation of the Food Stamp Employment and Training program, including Earnfare. The orientation shall include information regarding participation requirements, the distribution of a Food Stamp Employment and Training program booklet and an explanation of its contents which contains

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program information including the following:

- 1) an overview of the Food Stamp Employment and Training program, including Earnfare for those who are eligible to participate in Earnfare;
 - 2) the exemption criteria listed in Section 121.160(b);
 - 3) a description of all Food Stamp Employment and Training program components, eligibility criteria, and specific participation requirements for each component;
 - 4) general participation requirements, such as appearing for scheduled meetings with Food Stamp Employment and Training program staff, responding to a job referral, and accepting a bona fide offer of suitable employment as described in Section 121.162(c);
 - 5) the individual's responsibilities while in the Job Search component as described in Sections 121.162(c)(2) and 121.170;
 - 6) the Job Search allowance and the other supportive services identified in Section 121.188;
 - 7) information on what constitutes an acceptable employer contact;
 - 8) the assessment process and employability plan as described in Section 121.166; and
 - 9) the result of the individual's failure to cooperate, without good cause, with the Food Stamp Employment and Training program.
- c) When providing an orientation to individuals eligible for Earnfare, the orientation meeting shall include an explanation of the maximum Earnfare payment amount and the fact that individuals who volunteer for Earnfare are not subject to financial sanctions or food stamp disqualifications for refusal or failure to comply with Earnfare requirements.
- d) Mandatory registrants must attend all orientation meetings or notify their Food Stamp Employment and Training worker of good cause to be excused and have their meeting rescheduled (see Section 121.186).
- 1) If an individual fails to attend an orientation meeting on two separate occasions without good cause (see Section 121.186), Transitional Assistance will be sanctioned and/or Food Stamp Assistance shall be discontinued.
 - 2) If the mandatory registrant fails to attend an **Orientation** orientation meeting on two separate occasions but has good cause (see Section 121.186) on at least one occasion, Transitional Assistance and/or Food Stamp Assistance shall be reinstated (if cancelled) and the mandatory registrant shall be reimbursed for any Transitional Assistance lost.
 - 3) Transitional Assistance and/or Food Stamp Assistance shall be reinstated effective the date of the discontinuance if the mandatory registrant agrees to and subsequently attends an orientation meeting, provided the date of agreement falls on or before the last day of the fiscal month of the discontinuance. Individuals who sign an agreement and who subsequently attend the orientation meeting shall receive an assessment (as explained in

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Section 121.166) as part of the orientation session.

- 4) The Department shall attempt to schedule the orientation meeting on the day that the mandatory registrant agrees to attend such orientation, or as soon thereafter as possible.

(Source: Amended at 19 Ill. Reg. 5626, effective MAR 31 1995.)

Section 121.166 Assessment and Employability Plan

- a) Assessment and Employability Plan
 - 1) All individuals shall undergo an assessment to develop an employability plan.
 - 2) The assessment shall include collection of information to the extent it is readily provided by the client on the individual's background, age, literacy, education achievement level, job training and work experience as well as factors affecting employability or ability to meet participation requirements (for example, health, physical or mental limitations, recent institutionalization, family problems). In addition, facts relevant to a determination of whether the individual qualifies for an exemption shall be elicited. As part of the assessment process, the individual and Department staff or provider shall work together to establish the employability plan and to identify any supportive service needs required to enable the individual to participate in employment and training and meet the objectives of their employability plan (see subsection (b) of this Section below). If during assessment an individual is identified as "not employable," the individual will be referred to apply for Transitional Assistance and for a determination of "not employable" status.
- 3) The employability plan shall contain at least the following:
 - A) the employment-related objective;
 - B) the Food Stamp Employment and Training component placement;
 - C) the supportive services that must be provided or arranged; and
 - D) a statement that the supportive services have been provided by the Department or otherwise arranged, including an explanation of specific arrangements and services provided.
- b) The assessment shall take place at least at the following times:
 - 1) within ten working days after the date the program orientation is provided to the individual;
 - 2) at any time to determine the individual's suitability for a different component (see Section 121.170 through #2 121.182);
 - 3) if the individual is not cooperating with the requirements of the program (see Sections 121.162 and 121.170 through #2 121.182);
 - 4) prior to the assignment to a different component; or
 - 5) upon the request of the individual, if the individual is failing

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to make satisfactory progress in a component or thinks the component is not appropriate.

- c) When the assessment is conducted by the Department, the individual will be notified in writing of the assessment meeting. The notice shall include the following information:

- 1) the date and time of the interview;
- 2) a description of the purpose of the interview;
- 3) the consequences of failing to attend;
- 4) the right to reschedule for good cause (see Section 121.186); and
- 5) the address, telephone number and printed name of the person to contact for such purposes.

- d) Based on the assessment and the eligibility criteria for each Food Stamp Employment and Training component, an individual will be assigned a component or components and receive component specific participation requirements (see Sections 121.170 through 121.182).
- 1) If an individual fails to appear for an assessment interview or to comply with the assessment process without good cause (see Section 121.186), Transitional Assistance and/or Food Stamp Assistance shall be discontinued for the assistance unit.

- 2) If an individual has good cause (see Section 121.186) for failing to appear for an assessment interview or to comply with the assessment process, Transitional Assistance and/or Food Stamp Assistance shall be reinstated (if cancelled) and the individual shall be reimbursed for any Transitional Assistance lost.

- 3) Transitional Assistance and/or Food Stamp Assistance which has been discontinued because of failure to participate/cooperate in the assessment process shall be reinstated if the individual agrees to undergo an assessment and the assessment subsequently takes place. The reinstatement shall be effective the date of the discontinuance provided the date of agreement falls on or before the last day of the fiscal month for which the discontinuance would be effective. If the date of agreement falls after the last day of the fiscal month for which the discontinuation would be effective, reinstatement shall be effective upon cooperation.

- 4) The Department shall attempt to schedule the assessment interview on the same day that the individual agrees to cooperate with the assessment or as soon thereafter as possible.

- 5) Transitional Assistance shall not be sanctioned (see Section 121.184) for noncooperation with the Food Stamp Employment and Training program prior to completion of the assessment process. Also, no individual shall be sanctioned for noncooperation with the Food Stamp Employment and Training program when the alleged noncooperation is based in whole or in part on any act or omission of the individual which occurs prior to the completion of the assessment process.

- e) The individual shall be notified in writing of the discontinuance of Transitional Assistance and/or Food Stamp Assistance, due to failure

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to comply with this Section or Section 121.162(e). The notice shall state, with specificity, the action being taken and the reasons for the action, the acts constituting the noncompliance and the date of such acts. The notice shall also state the right to be restored to Transitional Assistance without loss of benefits upon completion of the conditions stated in this Section and Section 121.162(e).

- f) Food Stamp Employment and Training program participation shall not be required in the event that supportive services or other resources identified in the employability plan are needed for effective participation but are unavailable from the Department or from some reasonably available source.

(Source: Amended at 19 Ill. Reg. 56261, effective MAY 31 1995)

Section 121.170 Job Search Component

- a) Individuals assigned to the Job Search (JS) component based upon the employability plan must attend all scheduled meetings, including pre-arranged Job Skills Workshops conducted by other than Food Stamp Employment and Training staff. The individual will be notified in writing of all scheduled meetings. The failure of an individual to appear for scheduled meetings without good cause will constitute noncooperation.

- b) Individuals who fail to cooperate in Job Search without good cause shall be subject to financial sanction and/or food stamp disqualification as explained in Section 121.184.

- c) The individual is required to actively contact employers in his or her efforts to secure employment (i.e., mandatory registrants are required to make twenty (20) acceptable employer contacts every thirty (30) days). No individual shall receive a financial sanction and/or a food stamp disqualification for failure to make the appropriate number of job contacts, if the individual has made a good faith effort to make the job contacts (see Section 121.162(c)(2)).

- d) Individuals may be assigned to Job Search for a maximum of eight (8) weeks within a twelve (12) consecutive month period.

(Source: Amended at 19 Ill. Reg. 5626, effective MAY 31 1995)

Section 121.172 Basic Education Component

- a) In the Basic Education component, Food Stamp Employment and Training staff provide information, referral, counseling services and supportive services to individuals to increase their employment potential and to remove significant barriers to employment. Individuals may be referred to testing, counseling and education resources, rehabilitation therapy, and agencies or programs which

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sponsor such activities, such as Job Training Partnership Act (JTPA) and Department of Rehabilitation Services (DORS).

- b) Eligibility Criteria. Approval of education and training plans is based upon the Department's assessment of the following factors:

- 1) The program selected will lead to making an individual employable, taking into consideration the time required to complete, and the over-all cost and quality of the program (see Section 121.170(d));
 - 2) An individual has the aptitude, ability and interest necessary for success in the particular education or training program (as determined by such factors as test results, educational background and previous training);
 - 3) The program must be administered by an educational institution accredited by the Illinois State Board of Education or the Department of Professional Regulation or be a Job Training Partnership Act (JTPA) funded program;
 - 4) An individual must apply for the Pell grant and scholarships from the Illinois Student Assistance Commission, as well as any scholarships or grants identified by the education or training facility for which an individual may be eligible. Such funds shall be exempt from consideration as income to the extent they are used to pay educational expenses, such as books, tuition and fees, provided the individual is participating under an approved Food Stamp Employment and Training education and training plan;
 - 5) An individual does not possess a high school diploma or a GED certificate;
 - 6) An individual must participate in a full-time program as defined by the educational program unless:
 - A) a full-time program is not available (for example, a full-time GED program is not available); or
 - B) a part-time program is the most appropriate, as determined by the Food Stamp Employment and Training program.
- c) Entry into the Component. The assignment into the Basic Education component results from the joint employability plan developed by the individual and the Food Stamp Employment and Training worker (see Section 121.166).
- d) Participation Requirements
- 1) An individual must maintain a level of satisfactory progress as established and reported by the educational facility.
 - 2) Failure of an individual to attend training or education classes three (3) times in a thirty-(30) day period without good cause shall result in a financial sanction and/or food stamp disqualification (see Section 121.184). Failure to participate without good cause in classes as defined by the education or training facility shall result in a financial sanction and/or food stamp disqualification (see Section 121.184).
 - 3) Curriculum changes can be made only with the prior written approval of the Food Stamp Employment and Training worker. Prior

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approval will be granted when the curriculum change is consistent with the written goals of the training program.

- 4) An individual must provide monthly verification of attendance and progress (for example, statements signed by the instructor, educational records and reports prepared at the end of the term).
- e) Contact with Individuals. An individual is to contact the Food Stamp Employment and Training worker on a monthly basis if the supportive service payments identified in Section 121.188 are being issued.
- f) Availability of Slots. If the Department determines the individual should be in the Basic Education component, but there are no appropriate slots available, the individual may be assigned to another appropriate component, while waiting for an appropriate Basic Education slot to become available.

(Source: Amended at 19 Ill. Reg. 5626, effective MAR 31 1995)

Section 121.174 Job Readiness Component

- a) An individual who has not found employment and who needs to learn the necessary essentials to obtain and maintain employment may be referred to the Job Readiness component. The Job Readiness component helps an individual gain necessary job finding skills to help find and retain employment.

- b) Eligibility Criteria

- 1) The Job Readiness component is appropriate for an individual determined to be near job ready and who requires assistance to perfect job finding techniques and improve interview skills needed to obtain and to retain employment.
- 2) Job Readiness activities may be combined with other component activities if determined appropriate.

- c) Participation Requirements

- 1) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based upon the individual's circumstances.
- 2) The individual must attend all scheduled classes or sessions. The individual must make satisfactory progress based upon the written policy of the job readiness provider. If there is a job search component in the program, the individual must make up to eight (8) acceptable employer contacts in a thirty-(30) day period.

(Source: Amended at 19 Ill. Reg. 5626, effective MAR 31 1995)

Section 121.176 Work Experience Component

- a) An individual who needs orientation to work, work experience, or

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training in order to prevent deterioration of skills or to enhance existing skills may be referred to the Work Experience component. This is to provide the individual with a meaningful work experience. The work experience sponsor shall not use Work Experience mandatory registrants to displace regular employees.

b) Eligibility Criteria. The Work Experience component is appropriate for mandatory registrants determined:

- 1) to have no recent work history or employer references taking into consideration such factors as the mandatory registrant's educational background and previous training; or
- 2) to need experience to prevent deterioration of skills, or to enhance existing skills (for example, typing).

c) Entry into the Component

- 1) An individual who is determined eligible for the Work Experience component, based on an assessment of education, training and employment history, may be assigned to the Work Experience component. Procedures used in the assessment are a face-to-face meeting with the individual and a review of all available information on the individual (including but not limited to an individual's case record).

- 2) The Work Experience involves participation in the fields of health, social services, environmental protection, urban and rural development, welfare, recreation, public facilities, public safety and day care. Individuals shall be placed in any of the fields considering, to the extent possible, their prior training, proficiency, experience, skills, and vocational preference. Individuals will be selected for the appropriate field taking into consideration such factors as an individual's work history and the needs of the sponsor.

d) Participation Requirements

- 1) A work assignment consists of three ~~30~~ consecutive months. An individual is required to work with community based not-for-profit, private or government agencies and with public or private education and vocational training institutions. (The date an individual is to appear at the work assignment begins the work assignment period.) An individual is required to work not more than the number of hours that correspond with his or her ~~his/her~~ level of Transitional Assistance grant and/or Food Stamp benefits, divided by the federal minimum wage. If an individual is also a member of a Food Stamp household consisting of more than one person, Food Stamp benefits shall be prorated among all members of the household to determine the number of hours the registrant is required to complete in the work assignment.
- 2) During work assignment an individual may be required to participate in education and training programs. Additionally, an individual is required to accept bona fide offers of employment pursuant to Section 121.162(c)(4).
- 3) An individual is also required to report as scheduled and on time

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to the work assignment sponsor when notified of an assignment. When an individual cannot report to the work assignment or if the individual will be late, he or she ~~he/she~~ is to immediately notify the work assignment sponsor.

- 4) Failure to report to the job assignment initially without good cause or failure to attend the work assignment one day in a ~~thirty~~ 30 day period without good cause shall result in a financial sanction and/or food stamp disqualification.

e) Job Search. During work assignment, an individual who is not in an approved education and training program is required to make eight ~~10~~ acceptable employer contacts in a ~~thirty~~ 30 day period. Failure to make the required employer contacts without good cause shall result in a financial sanction and/or food stamp disqualification (see Section 121.162(c)(2)).

- f) Reassignment. At the end of the three ~~30~~ month period, an individual's employability will be evaluated using the procedures and criteria described in Section 121.166. If continuing the work assignment will benefit an individual in terms of furthering work skills (see subsection (b) of this Section ~~above~~), the individual shall be reassigned to the work assignment. Otherwise, an individual will be assessed for assignment to another Food Stamp Employment and Training component.

g) Displacement

- 1) The work assignment sponsor shall not use individuals participating in the Food Stamp Employment and Training program to displace the sponsor's employees:

- A) who are already employed as regular full-time or part-time employees of the sponsor, regardless of whether those employees are on active status or are on leave status due to disability, personal reasons, or any other reason;
 - B) who are or have been involved in a labor dispute between a labor organization and the sponsor; or
 - C) who have been temporarily laid off by the sponsor.
- 2) Individuals or their representatives may file a grievance with the Department if they believe their work assignments are causing displacement. In order for the Department to consider a grievance, it must be in writing and contain the following information:

- A) the name and address of the individual (the grievant);
 - B) the individual's public aid case number;
 - C) the individual's social security number;
 - D) the work assignment (work site); and
 - E) a statement as to why an individual believes he/she ~~he or she~~ is causing displacement.
- 3) Within ten ~~10~~ days after receipt of a written grievance, the Department will arrange an in-person conference with:
 - A) the individual;
 - B) the individual's representative, if any;

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- C) the work assignment sponsor;
 D) the work assignment sponsor's representative, if any; and
 E) the Department's representative.
- 4) At the in-person conference, the Department will solicit and receive from the individual and the work assignment sponsor any documents and statements relevant to the matters alleged in the grievance. The work assignment sponsor shall provide documents or other information requested by the individual and/or the Department.
- 5) Within ~~fifteen~~ 15 days after the in-person conference, the Department will advise the individual and the work assignment sponsor, in writing, of the information obtained in the investigation and of the findings and conclusions as to the matters alleged in the grievance.
- 6) If the Department concludes that displacement occurred, the Department will terminate the individual's assignment to that work assignment sponsor. If the Department concludes, as a result of the evidence presented at the conference, that the work assignment sponsor has caused displacement by use of individuals participating in the Food Stamp Employment Training program in addition to the individual grievant then the Department may terminate the Food Stamp Employment and Training program participants' assignment to that work assignment sponsor.
- 7) All individuals are assured that no retaliation will be taken against them by the Department, its employees, or the work assignment sponsor for filing a grievance or otherwise proceeding under this subsection (g).

(Source: Amended at 18 Ill. Reg. ~~6-26-84~~, effective MAR 31 1995)

Section 121.178 Job Training Component

- a) Individuals who will benefit from short-term training and job placement assistance are referred to the Job Training component. The Job Training component offers special time-limited services for specific target populations.
- b) Eligibility Criteria. The Job Training component is appropriate for individuals determined to:
- 1) be able to benefit from short-term vocational training (for example, an individual who has the interest and ability to complete the training program and be hired in a position for which an individual has trained);
 - 2) be readily employable with the addition of short-term training (for example, training for a specific job for which there are jobs available); and
 - 3) meet specific project entry criteria.
- c) Entry into the Component. Assignment of individuals to Job Training

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- will be made as a result of the assessment and development of the employability plan.
- d) Participation Requirements
- 1) The individual must maintain a level of satisfactory attendance and progress as established and reported by the training provider. Failure of an individual to attend training classes, without good cause, three ~~to~~ times in a ~~twenty~~ 30 day period shall result in a financial sanction and/or food stamp disqualification as specified for the Job Training component.
 - 2) The individual must provide verification of attendance and progress (~~for~~ for example, statements signed by the instructor, records and reports prepared at the end of the term). The individual must provide monthly verification of attendance.
- e) Contact with Individual
- 1) The Food Stamp Employment and Training worker shall have contact with the individual on a monthly basis. Contact consists of attendance reports, progress reports, group or individual sessions, on-site program visits and written correspondence.
 - 2) The individual must provide verification of progress such as statements signed by the instructor and records and reports prepared at the end of the term). The individual must provide monthly verification of attendance.

(Source: Amended at 19 Ill. Reg. 5626, effective MAR 31 1995)

Section 121.180 Grant Diversion Component

- a) In the Grant Diversion component, the individual's Transitional Assistance grant is diverted to the employer or contractor to offset the costs of training a new employee. The employer will be responsible for making payments to the individual in the form of a salary, at not less than the federal minimum wage, and the individual shall receive the same benefits as those provided to all company staff members, for their position title. At the end of the "training" period, the employer is expected to continue the employment of the individual without the diverted funds. The Transitional Assistance grant is diverted to a contractor who provides training and pays the individual wages during the training and then places the individual into unsubsidized full-time employment.
- b) Eligibility Criteria. The Grant Diversion component is appropriate for individuals determined:
- 1) to be receiving Transitional Assistance grant and food stamps;
 - 2) to possess the aptitude, ability and interest necessary for success in the selected program as determined by such factors as test results and educational/training background;
 - 3) to need experience to prevent deterioration of, or to enhance, existing skills; and

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- 4) who volunteer.
- c) Entry into the Component. The assignment to the Grant Diversion component results from the assessment and employability plan developed by the individual and the Food Stamp Employment and Training worker.
- d) Participation Requirements
- 1) The individual must agree to accept wages from employment. The employer will be responsible for making payments to the individual in the form of a salary, at not less than the federal minimum wage (higher if the position warrants), less applicable payroll taxes, in lieu of the cash grant, and the individual shall receive the same benefits as those provided to all company staff members for their particular position title.
 - 2) The individual must attend all scheduled days. Failure to attend, as agreed, without good cause shall result in a food stamp disqualification and/or financial sanction and removal from the Grant Diversion project. If the individual cannot report to the Grant Diversion employer or will be late, he or she ~~he-she~~ is to immediately notify the Grant Diversion employer.
 - 3) Assignment to the component can continue for three ~~33~~ to six ~~66~~ months, as specified in the contract. Individuals are not entitled to be placed in a Grant Diversion slot. Grant Diversion slots are available only to the extent that resources permit.
 - 4) The individual must do satisfactory work as determined by the employer or training provider.
 - 5) Upon completion of the Grant Diversion assignment, participants are required to accept bona fide offers of employment pursuant to Section 121.162(c)(4).
- e) Client Benefits
- 1) While actively involved in a training program, an individual remains eligible for medical assistance.
 - 2) An individual may also be entitled to certain supportive service payments, such as initial employment expenses.
- f) Contacts with Employers, Training Providers
- 1) Employers/Training Providers that participate in the Grant Diversion program must enter into a written contract with the Department prior to receiving referrals under this program.
 - 2) Employers/Training Providers must be, and must remain, in good standing with the Illinois Department of Revenue, the Secretary of State and any and all regulatory agencies which have jurisdiction over their activities.
- g) Displacement
- 1) The Grant Diversion sponsor shall not use individuals to displace persons:
 - A) who are already employed as regular, full-time or part-time employees of the sponsor, regardless of whether those employees are on active status or are on leave status due to disability, personal reasons or any other reason;
 - B) who are or have been involved in a labor dispute between a

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- labor organization and the sponsor;
- C) who have been temporarily laid off by the Grant Diversion employer.
- 2) Individuals in the Grant Diversion Component or their representatives may file a grievance with the Illinois Department if they believe their work assignments are causing displacement. In order for the Department to consider a grievance, it must be in writing and contain the following information:
- A) the name and address of the Grant Diversion individual (the grievant);
 - B) the Grant Diversion individual's public aid case number;
 - C) the Grant Diversion individual's social security number;
 - D) the Grant Diversion employer (work site); and
 - E) a statement as to why the Grant Diversion individual believes he/she is causing displacement.
- 3) Within ten ~~10~~ days after receipt of a written grievance, the Department will arrange an in-person conference with:
- A) the individual in the Grant Diversion Component;
 - B) the representative of the individual in the Grant Diversion Component;
 - C) the individual's Grant Diversion employer;
 - D) the Grant Diversion employer's representative, if any; and
 - E) the Department's representative.
- 4) At the time of the in-person conference, the Department will solicit and receive from the individual in Grant Diversion and the Grant Diversion employer any documents and statements relevant to the matters alleged in the grievance. The Grant Diversion employer shall provide documents or other information requested by the individual and/or the Department.
- 5) Within ~~fifteen--t~~ 15 days after the in-person conference, the Department will advise the Grant Diversion participant and the Grant Diversion employer in writing of the information obtained in the investigation and of the findings and conclusions as to the matters alleged in the grievance.
- 6) If the Department concludes that displacement occurred, the Department will terminate the individual's assignment to the Grant Diversion employer. If the Department concludes, as a result of the evidence presented at the conference, that the Grant Diversion employer has caused displacement by use of Food Stamp Employment and Training participants in addition to the grievant in Grant Diversion, then the Department may terminate those individuals assigned to that Grant Diversion employer.
- 7) All individuals assigned to Grant Diversion are assured that no retaliation will be taken against them by the Department, its employees, or the Grant Diversion employer for filing a grievance or otherwise proceeding under this subsection (g).

(Source: Amended at 19 Ill. Reg. 5626, effective

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Section 121.182 Earnfare Component

- a) Assignment to the Earnfare Component is limited to food stamp individuals who are initially otherwise eligible for Transitional Assistance and who are "employable" and volunteer to participate in Earnfare.
- b) Eligibility Criteria
 - 1) Eligibility for the Earnfare Component shall be limited to six months out of any 12 consecutive month period.
 - 2) Individuals are not entitled to be placed in an Earnfare slot. Earnfare slots shall be made available only as resources permit.
 - 3) To the extent resources permit, the Earnfare program will allow individuals to work for monthly payments and to improve their employability in order to succeed in obtaining employment.
- c) Administration and Contracts
 - 1) The Illinois Department shall administer the Earnfare program in Chicago.
 - 2) The Illinois Department may enter into cooperative agreements with local governmental units that receive State funds and want to participate in the operation of the Earnfare program outside the city of Chicago. The Department shall establish the policies and procedures for the program and monitor Earnfare programs in local governmental units.
 - 3) The Illinois Department may enter into contracts with other public agencies including State agencies, local governmental units, and not-for-profit community based organizations to help develop Earnfare opportunities and otherwise administer the program.
 - 4) The Illinois Department may enter into contracts with community based organizations as comprehensive providers to administer and operate Earnfare in the city of Chicago.
 - 5) The Illinois Department shall provide Worker's Compensation coverage for each individual assigned to Earnfare.
- d) Notification and Referrals
 - 1) In areas where an Earnfare program is operating, when the Illinois Department of the local governmental unit learns that individuals are in the following categories, it shall inform them in writing and, whenever possible, orally of the existence of Earnfare and the method for requesting an Earnfare referral.
 - A) Households approved or certified for non-assistance food stamps which do not have net food stamp income in excess of \$154.00 per month;
 - B) All persons denied or terminated from State Transitional Assistance because they are employable; and
 - C) All Earnfare participants shall be given a written notice at the time they leave the Earnfare program specifying when

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- 2) they will re-qualify.
 - The Illinois Department, comprehensive providers and participating downstate units shall make referrals to the Earnfare program as follows:
 - A) Any person may request a referral.
 - B) Within 30 days after a request for an Earnfare referral:
 - i) persons who do not qualify for the Earnfare program shall be given or sent a notice informing them that they do not qualify and will not receive a referral;
 - ii) persons who request a referral and who qualify for the Earnfare program shall be provided with a written document that acknowledges the request and informs the individual that he/she is qualified.
 - 3) Within 30 days after notice of eligibility, individuals shall be assessed and referred to appropriate Earnfare slots, if slots are available.
 - e) For the purposes of Earnfare, a "suitable" Earnfare slot must meet the following requirements:
 - 1) there are no questions as to the individual's ability to engage in such employment for medical reasons or because the individual has no way to get to or from the particular job;
 - 2) there are no questions of working conditions, such as risks to health, safety, or lack of worker's compensation protection;
 - 3) the individual may not be required, as a condition of employment, to join, resign from, or refrain from joining any legitimate labor organization;
 - 4) there is no unreasonable degree of risk to the individual's health and safety; and
 - 5) the individual is physically and mentally competent to perform the work.
 - f) Individuals participating in Earnfare shall not displace or substitute for regular, full-time or part-time employees, regardless of whether the employee is currently working, on a leave of absence, or in a position or similar position where a layoff has taken place or the employer has terminated the employment of any regular employee or otherwise reduced its work force with the effect of filling the vacancy so created with an individual subsidized under this program, or is or has been involved in a labor dispute between a labor organization and the sponsor.
 - g) Entry into the Component
 - 1) Individuals shall be referred to suitable Earnfare slots with local governmental units, not-for-profit community based and local organizations, other public agencies, including State agencies, and with private employers.
 - 2) To the extent appropriate slots are available, individuals will be referred to suitable Earnfare activities based on an assessment of the individual's age, literacy, education, educational achievement, job training, work experience, and

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recent institutionalization, whenever these factors are known and are relevant to the individual's success in carrying out the assigned activities and in ultimately obtaining employment. The Department or the participating local governmental unit shall discuss with the individual available Earnfare assignments, together with any restrictions and qualifications the Earnfare employers have specified for the assignments. The individual's personal preferences for available Earnfare assignments and the individual's employment goals shall be ascertained and considered in making the Earnfare referral.

- 3) The Department, comprehensive providers and local governmental units shall maintain up-to-date public listings by area or Earnfare employers and current information regarding openings in those projects. These listings and the information shall be available to the public, in writing or by phone, during regular business hours.

h) Payments

- 1) Individuals participating in Earnfare shall engage in work equal to the amount of the food stamp benefits divided by the federal minimum wage and subsequently shall receive payment for each additional hour of performance in Earnfare activity, up to a maximum of \$231.00 per month. An individual is considered to have participated in Earnfare in any month he or she ~~he/she~~ earns a payment. Individuals will be assigned hours of Earnfare based upon their initial food stamp authorization amount. An individual living in a multi-person food stamp household shall be deemed to be receiving a per capita share of the household's food stamp allotment, for purposes of calculating the Earnfare hours. During an individual's Earnfare participation the Department or the local governmental unit shall alter the Earnfare hours each time the individual's monthly food stamp benefit changes by at least \$20.00, effective the same month as the change in the food stamp benefit. Individuals and contractors will be notified by the Department or the local governmental unit of the number of hours of work to be performed by an individual in Earnfare.

- 2) Individuals remain financially eligible for Earnfare and Earnfare job search activity so long as they receive food stamps.

- 3) The Department may pay participants directly or may contract for the Earnfare employer to pay the individual. Payments shall be made no less frequently than monthly. Individuals shall be paid only for the hours they have actually worked in excess of the food stamp hours of work obligation.

- 4) Individuals shall be credited with hours of work that the Earnfare employer certifies them to have completed, according to criteria set forth in the contract with the Illinois Department, comprehensive providers or the local governmental unit. The unit staff shall attempt to resolve disputes between the Earnfare

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employer and the individual when there is disagreement over the number of hours worked. If the dispute cannot be resolved, the individual may utilize the Illinois Department's appeal process.

- 5) The Illinois Department or the provider shall, in advance, provide individuals participating in Earnfare who need transportation with the cost of transportation in getting to and from the Earnfare site and to Earnfare participants who are not in the job search component for specific job interviews arranged by their Earnfare employer. Individuals obtaining unsubsidized employment while participating in Earnfare may be eligible for initial employment expenses as stated in Section 121.188.

- 6) Participants in the Earnfare job search activity are eligible for employer contact related expenses not to exceed \$20.00 every 30 days for a maximum of two months in a 12 consecutive month period.

- 7) The Illinois Department will provide necessary clothing to enable participants to report to their Earnfare job site. Participants will be required to submit a written request for clothing needed.

i) Participation Requirements

- 1) Individuals may volunteer to participate in Earnfare and participation shall be limited to only six months out of any 12 consecutive month period. Individuals participating in Earnfare shall engage in work equal to the amount of the food stamp benefits divided by the federal minimum wage and subsequently shall earn minimum wage assistance for each additional hour of work up to a maximum of \$231.00 per month. Individuals participating in Earnfare first work the number of hours equal to food stamp benefits and subsequently earn financial assistance benefits.

- 2) Individuals are required to report as scheduled and on time to their Earnfare employer when notified of a referral. When they cannot report to their Earnfare assignment or if they will be late, they are to immediately notify their Earnfare employer.

- 3) If the individual demonstrates an inability to sustain the work that has been assigned and the Earnfare assignment was appropriate to the individual's abilities, the Illinois Department shall re-assess the individual and if appropriate shall refer the person to apply for Transitional Assistance or Interim Assistance and federal SSI benefits.

- 4) An individual may be dismissed by the employer from an Earnfare assignment prior to its completion. The Department, comprehensive providers or local governmental unit shall return an individual dismissed by an employer to the client pool. An individual dismissed by an employer shall be treated as a new program entrant for the purpose of Earnfare assignments. A dismissal from an Earnfare assignment shall not cause a food stamp sanction.

- 5) During Earnfare assignment, individuals are required to accept

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bona fide offers of suitable employment pursuant to Section 121.162(c)(4).

6) During the Earnfare assignment participants are required to apply for suitable jobs for which the provider makes a referral.

7) Earnfare clients may participate in a voluntary job search activity as resources permit. There are no sanctions for failure to comply. Earnfare clients may participate for two months in a 12 consecutive month period, either concurrently or following the six month eligibility period for Earnfare. Clients are required to make a minimum of 20 employer contacts each month while in the Earnfare job search activity.

(Source: Amended at 19 Ill. Reg. 5626¹, effective 11/31/1995)

Section 121.184 Sanctions

a) An individual who fails to cooperate with the Food Stamp Employment and Training program without good cause and who fails to comply with the conciliation process shall be subject to Transitional Assistance sanction and/or food stamp disqualification. Individuals who volunteer to participate in Earnfare are not subject to food stamp disqualifications for non-participation in Earnfare.

1) An individual who fails to cooperate with the requirements of the Food Stamp Employment and Training program shall be ineligible for Transitional Assistance for two (2) months and/or shall be disqualified for food stamps for two (2) months. The two month ineligibility and/or food stamp disqualification shall be ended early if the individual actually complies with the appropriate requirement or if the individual becomes exempt.

2) Transitional Assistance sanctions and/or food stamp disqualifications shall be imposed against those individuals who refuse or fail to participate without good cause in the Food Stamp Employment and Training program. (See Section 121.186 for good cause.)

b) Non-cooperation with the Food Stamp Employment and Training program includes one (1) instance of any of the following:

- 1) refusal/failure to respond to a job referral;
- 2) refusal/failure to accept a bona fide offer of suitable employment (see Section 121.162(c)(4));
- 3) discontinuance of suitable employment (including quitting a job after placement and before cancellation) without good cause (see Section 121.162(d)(1));
- 4) reduction of suitable employment (i.e. for example, hours of employment) without good cause (see Section 121.162(d)(1)); or
- 5) use of a supportive service payment (see Section 121.188) for something other than the supportive service for which it was provided.

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c) A Transitional Assistance sanction and/or food stamp disqualification will be imposed when an individual fails to comply, without good cause, with the following Food Stamp Employment and Training requirements on one (1) occasion, unless otherwise indicated:

- 1) An individual fails, without good cause, or refuses to respond to a written notice for an appointment. If an individual arrives anytime within thirty-(30) minutes after the start of the scheduled meeting, the individual will be considered present. If an individual has good cause (see Section 121.186) for being more than thirty-(30) minutes late, the tardiness will be excused. The Food Stamp Employment and Training worker will include the individual in a scheduled group or other meeting or re-schedule the individual for another meeting;

2) An individual refuses to accept child care, transportation, family counseling or other social service or employment and training services such as testing or employment counseling without good cause, thereby precluding or interrupting participation or progress in the employability plan;

3) An individual fails to cooperate in Job Search one (1) time without good cause (see Section 121.182(g)). Each missed session is considered an instance of non-cooperation. Failure of an individual to make the required twenty-(20) employer contacts in a thirty-(30) day period shall result in a Transitional Assistance sanction and/or a food stamp disqualification (see Sections 121.162(c)(2));

4) Individuals assigned to participate in an Education or a Training component activity must maintain a satisfactory level of attendance as established by the education or training facility. However, failure to attend training or education classes three (3) times in a thirty-(30) day period without good cause shall result in a Transitional Assistance sanction and/or food stamp disqualification (see Section 121.186); and

5) Failure of an individual to attend training, without good cause, as specified for the Training component shall result in a sanction.

d) A Transitional Assistance sanction and/or food stamp disqualification shall be imposed only on a nonexempt individual.

e) No Transitional Assistance sanction or food stamp disqualification will be imposed until Food Stamp Employment and Training staff has sent the individual a written notice scheduling a conciliation meeting and the individual has not shown good cause for non-cooperation and has either failed to attend the meeting without good cause or failed to complete the conciliation process (see Section 121.190). The written notice shall explain the purpose of the appointment and the consequences for failure to attend or failure to show good cause and shall include a definition of good cause. Failure of the mandatory registrant to appear for the scheduled meeting is not considered an instance of non-cooperation.

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f) A Transitional Assistance sanction and/or food stamp disqualification shall be rescinded at any level of the Transitional Assistance sanction and/or food stamp disqualification process up through and until the final agency decision, including any appeal hearing, even if not previously mentioned, if the individual establishes good cause (see Section 121.186 for good cause criteria).

g) The notice of change form issued for a Transitional Assistance sanction and/or food stamp disqualification shall include the following:

- 1) a description of the acts of non-cooperation with the Food Stamp Employment and Training program, including dates where applicable;
- 2) a statement that the individual's acts were without good cause (see Section 121.186 for good cause criteria) and if the individual provided a good cause reason it must state why the reason was rejected and that the individual failed to successfully complete the conciliation process; and
- 3) the following statement: "You will be sanctioned until (last day of sanction period) or until you comply with the appropriate program requirement or become exempt. In order for Transitional Assistance and Food Stamp Assistance to be restored at the end of the financial sanction and/or food stamp disqualification period with no further gap in assistance, you must file an application for Transitional Assistance and/or Food Stamp Assistance between (date) and (date). If you apply later than (date), there may be a further gap in assistance."

(Source: Amended at 19 Ill. Reg. 5626, effective MAR 31 1995)

Section 121.186 Good Cause for Failure to Cooperate

a) If an individual has good cause for not complying with Food Stamp Employment and Training participation requirements, Transitional Assistance shall not be discontinued and/or the food stamp assistance unit shall not be disqualified. Examples of good cause include but are not limited to:

- 1) illness or incapacity;
- 2) court required appearance or temporary incarceration;
- 3) family crisis;
- 4) death in the family;
- 5) sudden and unexpected emergency;
- 6) breakdown in transportation arrangements or lack of reasonably available transportation;
- 7) inclement weather;
- 8) the job referral does not meet appropriate work or training criteria (see Section 121.166);
- 9) lack of any supportive service or other resource as determined by

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the employability plan (see Section 121.166), even though the necessary service is not specifically provided under the Food Stamp Employment and Training program, to the extent the lack of the needed service presents a significant barrier to participation;

10) if an individual is engaged in employment and/or training that is consistent with the employment related goals of the program, if such employment and training is later approved by Food Stamp Employment and Training program staff (e.g. for example, an individual is unable to attend an Orientation meeting because he or she ~~he/she~~ is already attending GED classes);

11) failure to cooperate due to symptoms or conditions for which an individual has been referred to a rehabilitation treatment program;

12) failure of Department staff to correctly forward the information to the Food Stamp Employment and Training program staff;

13) failure of the individual to cooperate because of attendance at a test or a mandatory class or function at an educational program whether or not such a program is officially approved by the Food Stamp Employment and Training program. When Food Stamp Employment and Training workers know in advance of such tests and mandatory classes or functions, they shall schedule Food Stamp Employment and Training activities around them if possible;

14) failure of the individual due to the individual's illiteracy;

15) failure of the individual because it is determined that the individual should be in a different Food Stamp Employment and Training program component; or

16) non-receipt by an individual of a notice advising the individual of a participation requirement, if documented by the individual. Documentation can include, but is not limited to: a written statement from the post office or other informed individual; the notice not sent to an individual's last known address in Department records; return of the notice by the post office; other returned mail; and proof of previous mail theft problems. When determining whether the individual has demonstrated non-receipt, the Department shall take into consideration an individual's history of cooperation or non-cooperation. If the documented non-receipt of mail occurs frequently, the Department shall explore an alternative means of providing notices of participation requests to individuals.

b) The Department will not require an individual to document good cause for non-cooperation unless:

- 1) the individual has failed to comply with work, training, rehabilitation, or advocacy requirements on at least one other occasion within a ~~sixty~~-t 60 day period; or
- 2) evidence, independent of the explanation of good cause, casts doubt on the individual's explanation.

c) An individual shall not be denied good cause solely on the basis that

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he or she failed to notify the Department of the good cause in advance of a participation requirement.

(Source: Amended at 19 Ill. Reg. 5620, effective MAR 31 1995)

Section 121.188 Supportive Services

- a) Transitional Assistance recipients are eligible to receive supportive service payments in advance, except for orientation, to enable them to participate in the program. Individuals who are otherwise eligible for Transitional Assistance, but do not receive it because they are employable, are eligible to receive transportation payments in advance and initial employment expenses. Supportive service costs shall not include the cost of meals away from home.
- b) During the assessment, the supportive services needed by an individual which must be discussed and provided or arranged as needed include at least the following:
 - 1) transportation;
 - 2) employment-related medical services (for example, TB test);
 - 3) vocational rehabilitation;
 - 4) initial employment expenses;
 - 5) required books, fees, supplies;
 - 6) pre-employment and pre-training physical examinations that are needed but not otherwise provided; and
 - 7) clothing allowance to enable participants to report to their Earnfare job site.
- c) Food Stamp Employment and Training program participation will not be required if supportive services are needed for effective participation but unavailable from the Department or some other reasonably available source. Food Stamp Employment and Training program participation will not be required in a component if the individual's monthly allowable supportive service expenses exceed the maximum amount allowed by Department policy. Individuals may be required to participate in another component or a less costly activity of the same component to the extent it is consistent with the employability plan established during the individual's assessment.
- d) Eligible Services
 - 1) Transportation
 - A) If required and necessary, expenses for transportation will be provided to enable individuals to attend Orientation meetings and conciliation meetings.
 - B) Transportation expenses are to be paid to permit participation in the Job Search, Basic Education, Job Training, Job Readiness, Work Experience, Grant Diversion and Earnfare components.
 - C) Transportation payments are made at the most economical rate. If the individual's own automobile is used, the

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established rate per mile (~~47~~75¢ per mile) will be approved, which includes all vehicle-related expenses.

D) Transportation expenses are to be paid to go to and from work until receipt of first full paycheck.

E) Transportation expenses are to be paid to Earnfare participants who are not in the job search component for specific job interviews arranged by their Earnfare employer.

2) Job Search Expenses

A) Individuals participating in Job Search will receive an amount not to exceed \$20.00 a month to assist in the payment of job search related expenses.

B) An allowance of \$5.00 a month will be paid to individuals participating in the Work Experience and Job Readiness components to assist in the payment of job search related expenses.

3) Mandatory Fees. Mandatory fees, including application, registration, activities, laboratory, graduation and testing fees, including the fee for the GED test, are provided to individuals enrolled in approved education or training programs (see Sections 121.170 through 121.182). A maximum payment of \$300.00 per 12 month period can be provided. No payments are allowed for tuition.

4) Books and Supplies. Payment is allowed for books, supplies and equipment purchased in accordance with the facility's published list of required items for the particular program in which an individual is enrolled. A maximum payment of \$300.00 per 12 month period can be provided.

5) Physical Examinations. Payment is permitted for individuals to obtain required physical examinations if the costs are not otherwise provided by sources such as the employer or the training program.

6) Earnfare clothing allowance. Necessary clothing is provided to enable participants to report to their Earnfare job site. A maximum clothing allowance of \$100.00 per 12 month period can be provided.

7) Initial Employment Expenses

A) Payment may be provided for employment expenses incurred when requested within 30 calendar days from the date employment begins. These expenses are paid based on the individual's work days during a 30 calendar day period from the date employment begins. The total amount of all Initial Employment Expenses provided shall not exceed \$400 in a 12 consecutive month period. Payment may be made to individuals employed at least 20 hours weekly on a job that is expected to last at least 30 calendar days, or employed less than 20 hours weekly on a job that is expected to last at least 30 calendar days and total hours of employment plus component activity equal at least 20 hours per week.

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- B) These expenses include:
- i) Special clothing (maximum \$200);
 - ii) Required tools which are not provided by the employer (maximum \$200);
 - iii) Repairs of an automobile (maximum \$300);
 - iv) Auto license plate fees;
 - v) Auto liability insurance at the cheapest rate but not to exceed \$150 or three months coverage, whichever is less costly;
 - vi) Transportation expenses at the most reasonable and economical rate, whichever is less. If the mandatory registrant's own car is used, a gas allowance of \$3.00 daily or a rate of 15¢ per mile, whichever is less, shall be authorized;
 - vii) Child care;
 - viii) Physical examination prior to employment if required and not provided by the employer;
 - ix) Other required items related to a specific job (maximum \$300); and
 - x) Item(s) or service(s) purchased that will assist the individual in meeting Illinois Department of Children and Family Services' child care licensing requirements (maximum \$300.00). Item(s) and service(s) may include but are not limited to the purchase of fire extinguishers, smoke alarms, first aid kits and installation of a telephone.
- C) Initial employment expenses will not be authorized to purchase firearms, pay bail bonds or traffic tickets, or pay relocation expenses so an individual can accept employment elsewhere.
- D) Also not permitted as an initial employment expense are expenses required for the self-employment of the individual except when expenses will assist the individual in becoming an Illinois Department of Children and Family Services licensed child care provider.
- e) These allowances are exempt from consideration in determining the Transitional Assistance grant amount.

(Source: Amended at 19 Ill. Reg. 5626, effective
MAR 31 1995)

Section 121.190 Conciliation and Fair Hearings

- a) The Department shall establish a conciliation procedure to be used upon determining that an individual has refused or failed to comply with a Food Stamp Employment and Training program requirement. The conciliation process will be used to determine the reasons for reasons an individual did not comply with the Food Stamp Employment

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- and Training program and provide the individual with an opportunity to comply prior to the imposition of a Transitional Assistance sanction and/or a food stamp disqualification. If required and necessary, expenses for transportation will be provided to enable individuals to attend conciliation meetings.
- b) The conciliation period shall begin the day following the date of the Food Stamp Employment and Training program's discovery of an individual's refusal or failure to comply with program requirements and shall continue for a period not to exceed ~~thirty~~-4 30+ calendar days. Within this conciliation period, an individual shall receive notice in writing of a meeting to ascertain the reason(s) for the refusal or failure and to determine whether good cause exists. If it is determined that good cause does not exist, the Food Stamp Employment and Training program shall inform the individual of the pertinent Food Stamp Employment and Training program requirements and the consequences of failing to comply. The individual shall be informed of the actions necessary for compliance and the date by which compliance must be achieved to avoid the initiation of Transitional Assistance sanction and/or food stamp disqualification procedures. The compliance date may not exceed the end of the conciliation period. To avoid Transitional Assistance sanction and/or food stamp disqualification, an individual must perform a verifiable act of compliance within the ~~thirty~~-4 30+ day conciliation period. Verbal commitment by an individual is not sufficient, unless the individual is prevented from complying by circumstance beyond the individual's control, such as unavailability of a component. If it is apparent that the individual will not comply (for example, the individual refuses to comply and does not have good cause), the Food Stamp Employment and Training program may end the conciliation period early and proceed with Transitional Assistance sanction and food stamp disqualification procedures. The individual's refusal to comply shall be documented in the case record.
- c) If the individual does not comply during the conciliation period, the Food Stamp Employment and Training program shall initiate sanction action no later than the last day of the conciliation period. Transitional Assistance sanction action and/or food stamp disqualification may be cancelled if the Food Stamp Employment and Training program is able to verify that compliance was achieved by the end of the conciliation period.
- d) An individual will be provided with a written notice of sanction, which includes the particular act of refusal or failure to comply and the proposed period of Transitional Assistance sanction and/or food stamp disqualification. The notice shall also specify when the individual may reapply. Information shall also be included, on or with the notice of adverse action, that describes the action which can be taken to end or avoid the Transitional Assistance sanction and/or food stamp disqualification procedures. The individual has the right to request an appeal hearing through the Department's fair hearing

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process. An individual shall be allowed to examine the Food Stamp Employment and Training program case record at a reasonable time before the date of the appeal hearing, except for confidential information that the Food Stamp Employment and Training program determines should be protected from release. Confidential information not released to an individual may not be used by either party at the hearing.

(Source: Amended at 19 Ill. Reg. 56261, effective 11/11/95)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Adopted Action:
140.645 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: April 1, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: April 1, 1995
- 9) Notice of Proposal Published in Illinois Register: December 16, 1994 (19 Ill. Reg. 17865)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: In the first sentence of Section 140.645(a), a comma has been added after "age 21".

There are no other differences between the proposal and final version of these amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace Emergency Amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.11	Amendment	January 13, 1995 (19 Ill. Reg. 165)
140.12	Amendment	January 13, 1995 (19 Ill. Reg. 165)
140.80	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.80	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.82	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.82	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.84	Amendment	March 17, 1995 (19 Ill. Reg. 3248)
140.84	Amendment	March 24, 1995 (19 Ill. Reg. 4337)
140.400	Amendment	February 10, 1995 (19 Ill. Reg. 1200)

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140.413 Amendment July 8, 1994 (18 Ill. Reg. 10637)
 140.435 Amendment February 10, 1995 (19 Ill. Reg. 1200)
 140.523 Amendment January 13, 1995 (19 Ill. Reg. 165)

- 15) Summary and Purpose of Amendments: These amendments respond to the approval of a new home and community based services waiver for children with disabilities who are medically fragile and technology dependent. This new waiver is intended to expand upon the original Model Waiver which provides services in the home for Medicaid eligible persons under age 21 and prevents unnecessary institutionalization. While the Model Waiver can serve only 200 clients, the new waiver is not restricted to 200 participants. The services available for care in the home under the new waiver include private duty nursing, home health aides, environmental modification, special medical supplies and equipment, respite care, medically supervised day care and maintenance placement counseling. Eligibility criteria for coverage under both waivers require that the Department's estimated cost for in-home care is not greater than the estimated cost for care in a hospital or long term care facility.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones
Address: Bureau of Rules and Regulations
 Illinois Department of Public Aid
 100 South Grand Avenue East, Third Floor
 Springfield, Illinois 62762
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER I: DEPARTMENT OF PUBLIC AID
 SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
 MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
 140.2 Medical Assistance Programs
 140.3 Covered Services Under The Medical Assistance Programs for AFDC, AFDC-WANG, AABD, AABD-WANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify as Mandatorily Categorically Needy and Disabled Persons Under Age 21 Who May Qualify for Medicaid and In-Home Care (Model Waiver)
 Covered Medical Services Under AFDC-WANG for non-pregnant persons who are 18 years of age or older (Repealed)
 Covered Medical Services Under GA
 Medical Services Not Covered
 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
 Medical Assistance For Qualified Severely Impaired Individuals
 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-WANG if the Child Were Already Born Or Who Do Not Qualify As Mandatorily Categorically Needy
 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
 140.12 Participation Requirements for Medical Providers
 140.13 Definitions
 140.14 Denial of Application to Participate in the Medical Assistance Program
 140.15 Recovery of Money
 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
 140.18 Effect of Termination on Individuals Associated with Vendor
 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
 140.20 Submittal of Claims
 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)

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140.22 Magnetic Tape Billings
 140.23 Payment of Claims
 140.24 Payment Procedures
 140.25 Overpayment or Underpayment of Claims
 140.26 Payment to Factors Prohibited
 140.27 Assignment of Vendor Payments
 140.28 Record Requirements for Medical Providers
 140.30 Audits
 140.31 Emergency Services Audits
 140.32 Prohibition on Participation, and Special Permission for Participation
 140.33 Publication of List of Terminated, Suspended or Barred Entities
 140.35 False Reporting and Other Fraudulent Activities
 140.40 Prior Approval for Medical Services or Items
 140.41 Prior Approval in Cases of Emergency
 140.42 Limitation on Prior Approval
 140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained
 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice
 140.72 Voucher Advance Payment and Expedited Payments
 140.73 Drug Manual (Recodified)
 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section
 140.80 Hospital Provider Fund
 140.82 Developmentally Disabled Care Provider Fund
 140.84 Long Term Care Provider Fund
 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
 140.95 Hospital Services Trust Fund
 140.96 General Requirements (Recodified)
 140.97 Special Requirements (Recodified)
 140.98 Covered Hospital Services (Recodified)
 140.99 Hospital Services Not Covered (Recodified)
 140.100 Limitation On Hospital Services (Recodified)
 140.101 Transplants (Recodified)
 140.102 Heart Transplants (Recodified)
 140.103 Liver Transplants (Recodified)
 140.104 Bone Marrow Transplants (Recodified)
 140.110 Disproportionate Share Hospital Adjustments (Recodified)
 140.116 Payment for Inpatient Services for GA (Recodified)
 140.117 Hospital Outpatient and Clinic Services (Recodified)
 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
 140.203 Limits on Length of Stay by Diagnosis (Recodified)

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140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
 140.350 Copayments (Recodified)
 140.360 Payment Methodology (Recodified)
 140.361 Non-Participating Hospitals (Recodified)
 140.362 Pre July 1, 1989 Services (Recodified)
 140.363 Post June 30, 1989 Services (Recodified)
 140.364 Prepayment Review (Recodified)
 140.365 Base Year Costs (Recodified)
 140.366 Restructuring Adjustment (Recodified)
 140.367 Inflation Adjustment (Recodified)
 140.368 Volume Adjustment (Repealed)
 140.369 Groupings (Recodified)
 140.370 Rate Calculation (Recodified)
 140.371 Payment (Recodified)
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 140.373 Utilization (Repealed)
 140.374 Alternatives (Recodified)
 140.375 Exemptions (Recodified)
 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.391 Definitions (Recodified)
 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section
 140.400 Payment to Practitioners, Nurses and Laboratories
 140.410 Physicians' Services
 140.411 Covered Services By Physicians
 140.412 Services Not Covered By Physicians
 140.413 Limitation on Physician Services
 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
 140.416 Optometric Services and Materials
 140.417 Limitations on Optometric Services
 140.418 Department of Corrections Laboratory
 140.420 Dental Services
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 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
 140.425 Podiatry Services

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140.429	Limitations on Chiropractic Services (Repealed)		
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140.905	Statewide Rates (Repealed)
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SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT

EQUITY (ICARE) PROGRAM

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140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1993, ch. 111 1/2, par. 6503-1 et seq.) [20 ILCS 2215/Art. 3] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13) [305 ILCS 5/Arts. 3, 4, 5, 6, 7, and 5/12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 9 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677,

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effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12

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Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.912 and 140.912 Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.205 and 147.205 Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13562, effective August 6, 1990;

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emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 23, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg.

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7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 11126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective

SUBPART E: GROUP CARE

Section 140.645 Medical--and--in-Home--Care Home and Community Based Services Waivers For Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Model-Waiver)

a) The Department shall operate waiver programs ~~a-Model-Waiver-Program~~ to provide medical and in-home care for disabled persons under age 21, who are medically fragile and technology dependent, to prevent unnecessary institutionalization. The waiver programs ~~Model-Waiver Program~~, pursuant to Section 1915(c) of the Social Security Act, allow payments for medical services ~~including such in-home care services~~ ~~environmental modifications~~ ~~and respite care services~~ ~~as the Department and the person's physician or physicians~~ ~~physicians~~ agree are necessary.

b) The Department operates two home and community based services waivers for medically fragile and technology dependent persons under age 21.

1) Model Waiver I

A) Serves only a limited number (200) of clients.

B) Clients may receive the following services in the home: home health aides, respite care, environmental modification, private duty nursing, and special medical supplies and equipment.

2) Waiver II

A) Serves a specified number of clients, but is not limited to 200 participants.

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B) Clients may receive the following services in the home: home health aides, respite care, environmental modification, private duty nursing, special medical supplies and equipment, medically supervised day care, and maintenance placement counseling.

b7c) Initial and continuing eligibility for the waivers Model--Waiver is dependent upon all of the following criteria being satisfied:

1) the client who is 20 years or younger and qualifies as disabled as defined under the Federal Supplemental Security Income Program (20 CFR 416, Subpart I);

2) a physician (licensed to practice medicine in all its branches) has determined that the client requires a level of care provided by a hospital, nursing facility or intermediate care facility for the mentally retarded, or--long--term--care--facility and has determined that such level of care can be provided outside of an institution;

3) the estimated cost to the State of for care outside of an institution for the client is not greater than the estimated cost to the State for of care of for the client in an institution;

4) the client would be eligible for Medicaid if the person's responsible relatives' income and resources were excluded from consideration.

d7d) With in respect to each client who is determined by the Department to meet the criteria listed in subsection (c) subsections--(117--(27)--(317 and--(4) above, the Department shall waive eligibility criteria for receipt of federally funded assistance pursuant to Sec. Section 1915(c) of the Social Security Act.

d7e) Medical coverage for a client shall be of the same extent of coverage as that provided to persons receiving medical assistance under Section 140.3. the--client--can--also--receive--the--following--in-home--care services--home--health--care--aides--case-management-services--respite care--services--environmental-modification--services--private-duty nursing--services--and--special-medical-supplies--equipment--and appliances.

(Source: Amended at 19 Ill. Reg. 5663, effective APR 01 1995)

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1) Heading of the Part:

Illinois Veterans' Homes Code

2) Code Citation:

77 Ill. Adm. Code 340

3) Section Numbers:Adopted Action:

340.1000	New Section
340.1010	New Section
340.1110	New Section
340.1115	New Section
340.1120	New Section
340.1130	New Section
340.1140	New Section
340.1150	New Section
340.1160	New Section
340.1170	New Section
340.1190	New Section
340.1200	New Section
340.1210	New Section
340.1220	New Section
340.1230	New Section
340.1240	New Section
340.1245	New Section
340.1250	New Section
340.1260	New Section
340.1300	New Section
340.1310	New Section
340.1320	New Section
340.1330	New Section
340.1335	New Section
340.1340	New Section
340.1350	New Section
340.1360	New Section
340.1370	New Section
340.1375	New Section
340.1400	New Section
340.1410	New Section
340.1420	New Section
340.1430	New Section
340.1440	New Section
340.1450	New Section
340.1460	New Section
340.1470	New Section
340.1480	New Section

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340.1490 New Section
 340.1500 New Section
 340.1505 New Section
 340.1510 New Section
 340.1520 New Section
 340.1530 New Section
 340.1535 New Section
 340.1540 New Section
 340.1550 New Section
 340.1560 New Section
 340.1570 New Section
 340.1580 New Section
 340.1590 New Section
 340.1600 New Section
 340.1610 New Section
 340.1620 New Section
 340.1630 New Section
 340.1650 New Section
 340.1655 New Section
 340.1660 New Section
 340.1665 New Section
 340.1670 New Section
 340.1700 New Section
 340.1710 New Section
 340.1720 New Section
 340.1800 New Section
 340.1810 New Section
 340.1820 New Section
 340.1830 New Section
 340.1840 New Section
 340.1900 New Section
 340.1910 New Section
 340.1920 New Section
 340.1930 New Section
 340.1940 New Section
 340.1950 New Section
 340.1960 New Section
 340.2000 New Section
 340.2010 New Section
 340.2020 New Section
 340.2030 New Section
 340.2040 New Section
 340.2050 New Section
 340.TABLE A
 340.TABLE B

4) Statutory Authority:

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Nursing Home Care Act
 Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 4151-101 et seq.
 [210 ILCS 45 et seq.]

5) Effective Date of Rules: April 3, 1995

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain Any Incorporations By Reference? Yes

8) Date Filed in Agency's Principal Office: April 3, 1995

9) Date Notice(s) of Proposal was Published in Illinois Register:

August 26, 1994 - 18 Ill. Reg. 12955

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? No

11) Difference Between Proposal and Final Version:

The following changes were made in response to comments received during the first notice or public comment period:

1. Between lines 22 and 23, add "340.1245 Conditions for Assessment of Penalties".
2. Between lines 30 and 31, add "340.1335 Infection Control".
3. Between lines 34 and 35, add "340.1375 Personnel Requirements".
4. Between lines 45 and 46, add "340.1490 Private Right of Action".
5. Between lines 48 and 49, add "340.1505 Medical, Nursing and Restorative Services".
6. Between lines 51 and 52, add "340.1535 Dental Programs".
7. Add the word "Physical" before the word "Restraint" on lines 57 and 58.
8. Between lines 61 and 62, add the following:
"SUBPART E: MEDICATION ADMINISTRATION SERVICES"

Section

- 340.1650 Medication Policies and Procedures
 340.1655 Conformance with Physician's Orders
 340.1660 Administration of Medication
 340.1665 Control of Medications
 340.1670 Labeling and Storage of Medication
 8. Rename "SUBPART E" on line 62 as "SUBPART F".
 9. Rename "SUBPART F" on line 67 as "SUBPART G".
 10. Rename "SUBPART G" on line 74 as "SUBPART H".
 11. Rename "SUBPART H" on line 83 as "SUBPART I".
 12. Close up the spaces between line 107 and 108, 108 and 109, 112 and 113, 114 and 115, 120 and 121 and 126 and 127.
 13. Add a period to the end of line 140.

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14. Add the following between line 171 and 172: "Aide or Orderly - any person providing direct personal care, training or habilitation services to resident."
15. Add the following after the word "symptom" on line 199: "or behavior manifestations of mental illness."
16. Replace all the words after "maintain" on lines 207 and 208 with "a resident, that is not in the resident's best interest, with less effort or expense than would otherwise be required by the facility."
17. On line 472, change the word "is" to "if".
18. On line 502, remove the words "with the".
19. Close up the spaces between 577 and 578 and between 579 and 580.
20. Add the following after line 637,
 - "2) National Council for Therapeutic Recreational Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302."
21. Change "2)" on line 638 to "3)".
22. Change "3)" on line 670 to "4)".
23. Add an "s" between the "r" and the period in the word "par." on lines 672, 673, 676, 678, 681, 683, 685, 687, 689, 691, 693, 696, 699, 701, 705 and 707.
24. Move the period inside the parenthesis on line 674.
25. Delete lines 702 and 703.
26. Reletter the "p)" on line 704 to "o)" and the "q)" on line 706 to "p)".
27. Replace the semi-colon at the end of line 707 with a period.
28. Renumber the "4)" on line 708 to a "5)".
29. Capitalize the "c" in "code" on line 715.
30. On line 1017, add ", as appropriate," after the word "experience".
31. After line 1256, add the following:

"Section 340.1245 Conditions for Assessment of Penalties

The Department shall consider the assessment of a monetary penalty against a facility under the following conditions:

- a) When a notice of violation for a level A violation is issued.
 - 1) The penalty to be assessed for this violation shall be the greater of the following:
 - A) An amount NOT LESS THAN \$5000 as determined by the Director or his designee considering the factors outlined in Section 3-306 of the Act.
 - B) The total of the following:
 - i) \$5 PER RESIDENT IN THE FACILITY, PLUS

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- ii) \$.20 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE day on which the NOTICE OF VIOLATION IS received by the facility and ENDING ON THE day THE VIOLATION IS CORRECTED. (Section 3-305(1) of the Act)
- 2) The facility shall also be ISSUED A CONDITIONAL LICENSE FOR A PERIOD OF SIX MONTHS.
- b) When a facility fails to abate or eliminate a level A violation immediately or within the period set by the Department in the notice of violation:
 - 1) The facility shall be cited for repeat violation;
 - 2) The penalty to be assessed shall be three times the penalty computed under subsection (a)(1) of this Section; and
 - 3) The license of the facility shall be revoked as provided in Section 340.1150.
- c) When a notice of violation for a level B violation is issued.
 - 1) The penalty to be assessed for this violation shall be the greater of the following:
 - A) An amount NOT LESS THAN \$500 as determined by the Director or his designee considering the factors outlined in Section 3-306 of the Act.
 - B) The total of the following:
 - i) \$.3 PER RESIDENT IN THE FACILITY, PLUS
 - ii) \$.15 PER RESIDENT FOR EACH DAY OF THE VIOLATION, COMMENCING ON THE day on which the NOTICE OF VIOLATION IS received by the facility AND ENDING ON THE day THE VIOLATION IS CORRECTED. (Section 3-305(2) of the Act)
- 2) Upon acceptance of a plan of correction by the Department, assessment of the penalty shall be suspended by the Department. No additional penalty shall be imposed for days during which the plan of correction is in effect.

- d) When a facility fails to correct a level B violation within the time period specified in the plan of correction approved by the Department.

- 1) The facility shall be cited for a repeat violation.
- 2) The penalty to be assessed shall be computed in accordance with

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subsection (c)(1) of this Section. Days during which the plan of correction was in effect shall be included in the calculation of the penalty.

- 3) The facility shall also be issued a conditional license for a period of at least six months as provided in Section 340.1150.

e) When a Notice of Violation is issued for A PROVISION OF ARTICLE II which HAS BEEN VIOLATED WITH REGARD TO A PARTICULAR RESIDENT, THE DEPARTMENT SHALL ISSUE AN ORDER REQUIRING THE FACILITY TO REIMBURSE THE RESIDENT FOR INJURIES INCURRED, OR \$100, WHICHEVER IS GREATER. IN THE CASE OF A VIOLATION INVOLVING ANY ACTION OTHER THAN THEFT OF MONEY BELONGING TO A RESIDENT, REIMBURSEMENT SHALL BE ORDERED ONLY IF A PROVISION OF ARTICLE II HAS BEEN VIOLATED WITH REGARD TO THAT OR ANY OTHER RESIDENT OF THE FACILITY WITHIN THE 2 YEARS IMMEDIATELY PRECEDING THE VIOLATION IN QUESTION. (Section 3-305(6) of the Act)"

32. After line 1331, add the following:

b) There shall be an advisory physician, or a medical advisory committee composed of physicians, who shall be responsible for advising the administrator on the overall medical management of the residents and the staff of the facility. If the facility employs a house physician, the house physician may be the advisory physician."

33. On line 1332, reletter "b)" to "c)".

34. On line 1335, reletter "c)" to "d)".

35. After line 1349, add the following:

e) The facility shall have a written agreement with one or more hospitals, which indicates the hospital or hospitals will provide diagnostic, emergency and routine acute care hospital services. (This requirement may be waived when the facility can document to the satisfaction of the Department that by reason of remote location or refusal of local hospitals to enter an agreement, it is unable to effect such an agreement.)

f) The advisory physician or medical advisory committee shall develop policies and procedures to be followed during the various medical emergencies that may occur from time to time in a facility. These medical emergencies include, but are not limited to, such things as:

- 1) Pulmonary emergencies (for example, airway obstruction, foreign body aspiration, and acute respiratory distress, failure, or arrest).
- 2) Cardiac emergencies (for example, ischemic pain, cardiac failure, or cardiac arrest).
- 3) Traumatic injuries (for example, fractures, burns, or lacerations).

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- 4) Toxicologic emergencies (for example, untoward drug reactions or overdoses).

- 5) Other medical emergencies (for example, convulsions or shock).

g) The facility shall maintain in a suitable location the equipment to be used during the emergencies detailed in subsection (f) of this Section. This equipment shall include, at a minimum, a portable oxygen kit, including a face mask or cannula, an airway, and a bag value mask manual ventilating device."

36. After line 1477, add the following:

"Section 340.1335 Infection Control

a) The administrator shall assume the responsibility for the establishment of policies and procedures designed to control the spread of infections in the facility.

b) The administrator shall establish an Infection Control Committee, composed of one or more members of the medical staff, and one or more representatives of each of the services provided by the facility, such as nursing, administration, dietary, pharmacy, housekeeping, maintenance and other services. (This is not intended to limit the facility's organization of responsibilities. Any group which includes at least these members may constitute this committee.)

c) The committee shall establish policies and procedures for investigating, controlling, and preventing infections in the facility. The policies and procedures established by the committee shall be consistent with and include the requirements of the rules of the Department of Public Health entitled "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) and "Control of Sexually Transmissible Diseases Code" (77 Ill. Adm. Code 693). The committee shall monitor staff activities to ensure that these policies and procedures are followed.

d) Each facility shall adhere to the recommendations of the U.S. Public Health Service contained in the publication entitled "Guidelines for the Prevention and Control of Nosocomial Infections." The publication may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333. This publication includes the following guidelines:

- 1) "Guideline for Prevention of Catheter-Associated Urinary Tract Infections" (October 1981).
- 2) "Guideline for Handwashing and Hospital Environmental Control"

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(1985).

- 3) "Guideline for Prevention of Intravascular Infections" (October 1981).
- 4) "Guideline for Prevention of Surgical Wound Infections" (March 1982, Revised 1985).
- 5) "Guideline for Prevention of Nosocomial Pneumonia" (July 1982).
- 6) "Guideline for Isolation Precautions in Hospitals" (July 1983).
- 7) "Guideline for Infection Control in Hospital Personnel" (July 1983)."

37. After line 1597, add the following:

"Section 340.1375 Personnel Requirements

a) Supervision of Nursing Services

- 1) The facility shall have a director of nursing service (DONS) who shall be a registered nurse.

A) This person shall have knowledge and training in nursing service administration and restorative and rehabilitative nursing. This person shall also have some knowledge and training in the care of the type of residents for which the facility cares.

- B) This person shall be a full-time employee who is on duty a minimum of 36 hours, four days per week.

C) A facility may, with written approval from the Department, have two nurses share the duties of this position if it is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full-time; and information about the numbers and availability of licensed nurse in the area. The Department will approve only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool

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of nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full-time.

- D) In facilities of less than 50 beds, this person may also provide direct patient care, and this person's time may be included in meeting staff/resident ratio requirements.

2) Facilities of 100 or more beds, shall have a licensed nurse designated as the assistant director of nursing service. This person shall perform the duties of the DONS when the DONS is on vacation or extended sick leave. The assistant may provide direct patient care and be included in the staff to resident ratio calculations when not acting as the DONS.

- A) The assistant shall be a full-time employee who is on duty a minimum of 36 hours, four days per week. The assistant may be assigned to work hours any time of the day or night.

- B) The assistant shall assist the DONS in carrying out the responsibilities of the DONS.

3) The DONS shall oversee the nursing services of the facility. This person's duties shall include:

- A) Assigning and directing the activities of nursing service personnel.

- B) Assuring that resident care plans are developed and maintained.

C) Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

- D) Participating in planning and budgeting for nursing services including purchasing of necessary equipment and supplies.

E) Developing and maintaining nursing service objectives, standards of nursing practice, written policies and procedures, and written job descriptions for each level of nursing personnel.

- F) Coordinating health services and nursing services with other resident care services such as medical, pharmaceutical, dietary activities, and any other restorative/rehabilitative services offered.

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- G) Planning of inservice education, embracing orientation, skill training, and ongoing education for all personnel covering all aspects of resident care and programming. The education program shall include training and practice in activities and restorative/rehabilitative nursing techniques through out-of-facility or in-facility training programs. This person may conduct these programs personally or see to it that they are carried out.
- H) Participating in the development and implementation of resident care policies and bringing resident care problems, requiring changes in policy, to the attention of the facility's policy development group.
- I) Participating in the screening of prospective residents and their placement in terms of services they need and nursing competencies available.

b) Nursing Personnel

- 1) There shall be a licensed or registered nurse on duty and designated as being in charge of nursing services on all shifts when neither the director of nursing service nor assistant director of nursing service is on duty. If registered nurses and licensed practical nurses are on duty on the same shift, this charge nurse shall be the registered nurse.
- 2) There shall be at least one registered nurse on duty seven days per week for eight consecutive hours. There shall be at least one registered nurse or licensed practical nurse on duty on each floor housing residents.
- 3) The need for licensed nurses on each nursing unit in a nursing facility will be determined on an individual case basis, dependent upon the individual situation. The need for an additional registered or licensed practical nurse to serve as a "house supervisor" will be determined on an individual basis. If such additional staffing is required, the Department will inform the facility in writing of the kind and amount of additional staff time required, and the reason why it is needed.
- 4) Nursing Assistants
- A) The facility shall assure that each person employed by the facility as a nursing assistant complies with one of the following conditions no later than 45 days after the date of initial employment.

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- i) Provide documentation of registration on the Department's Nurse Aide Registry.
- ii) Enroll in a Basic Nursing Assistant Training Program that has been approved by the Department under its rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395) and pass the Department approved nursing assistant competency examination. The program coursework shall be successfully completed and the competency examination passed by the nursing assistant no later than 120 days after the date of initial employment, unless that training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.
- iii) Provide documentation from another state of certification as a nursing assistant on or after January 1, 1990.
- iv) Provide documentation of successful completion of a nursing arts course in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the Department approved nursing assistant competency examination.
- B) The facility shall assure that each person employed by the facility as a nursing assistant shall meet each of the following requirements:
- i) BE AT LEAST 16 YEARS OF AGE, OF TEMPERATE HABITS AND GOOD MORAL CHARACTER, HONEST, RELIABLE, AND TRUSTWORTHY. (Section 3-206(a)(1) of the Act)
- ii) BE ABLE TO SPEAK AND UNDERSTAND THE ENGLISH LANGUAGE OR A LANGUAGE UNDERSTOOD BY A SUBSTANTIAL PERCENTAGE OF THE FACILITY'S RESIDENTS. (Section 3-206(a)(2) of the Act)
- iii) PROVIDE EVIDENCE OF EMPLOYMENT OR OCCUPATION, IF ANY, AND RESIDENCES FOR TWO YEARS PRIOR TO INITIAL EMPLOYMENT AS A NURSING ASSISTANT. (Section 3-206(a)(3) of the Act)
- iv) HAVE COMPLETED AT LEAST EIGHT YEARS OF GRADE SCHOOL OR PROVIDE PROOF OF EQUIVALENT KNOWLEDGE. (Section 3-206(a)(4) of the Act)

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C) THE FACILITY SHALL CERTIFY TO THE DEPARTMENT THE NAME AND RESIDENCE ADDRESS OF EACH NURSING ASSISTANT EMPLOYED BY THE FACILITY, AND THAT THE EMPLOYEE SUBJECT TO THIS SECTION MEETS ALL REQUIREMENTS OF THIS SECTION. Such certification shall be retained by the facility as part of the employee's personnel record. (Section 3-206(d) and (e) of the Act)

D) A FACILITY SHALL NOT EMPLOY AN INDIVIDUAL AS A NURSE AIDE UNLESS THE FACILITY HAS INQUIRED OF THE DEPARTMENT AS TO INFORMATION IN THE REGISTRY CONCERNING THAT INDIVIDUAL AND FINDINGS OF RESIDENT ABUSE, RESIDENT NEGLECT OR MISAPPROPRIATION OF RESIDENT PROPERTY. (Section 3-206.01 of the Act)

E) Nursing assistants must be able to demonstrate competency in the principles, techniques, and procedures covered by the basic nursing assistant training program curriculum described in the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395)

c) There shall be at least one person on duty at all times who has been properly trained to handle the medical emergencies listed in Section 340.1300(f) of this Part. This person may also be counted in fulfilling the requirements of other subsections of this Section.

d) When a facility has only one employee on duty, that employee shall have been certified within the past 12 months in the provision of basic life support by an American Heart Association or American Red Cross certified training program. When there is more than one person on duty in the facility, at least two of the people on duty shall be so certified. A facility employee who is on duty serving in any capacity in the facility may be utilized to meet this requirement.

e) Direct Care Staffing

1) The facility must have adequate staff in numbers, training and supervision to meet all residents nursing, personal care and psychosocial needs at all times.

2) Staffing shall apply to hours of actual on duty time, not hours scheduled to be provided. The Director of Nursing Services time shall not be included to fulfill required hours except as allowed in subsection (a)(1)(D) of this Section. Direct care staff includes licensed nurses, certified nurses aides, social service staff, qualified mental retardation professionals, and activity personnel.

3) Each resident shall be provided at least 2.0 direct care staff

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hours each day of which at least 20 percent must be licensed nurse time.

4) In a facility whose residents participate in regularly scheduled therapeutic programs outside the facility, such as school or sheltered workshops, the minimum hours per day of direct care may be reduced proportionately as long as the facility meets the needs of the residents.

f) The facility shall provide a Resident Services Director who is assigned responsibility for the coordination and monitoring of the resident's comprehensive care plan. The director of nursing services or an individual on the professional staff of the facility may fill this assignment to assure that residents' comprehensive care plan is individualized, written in terms of short and long-range goals, understandable and utilized; their needs are met through appropriate staff interventions and community resources; and resident are involved, whenever possible, in the preparation of their plan of care."

38. On line 1608, delete the "t" from the word "thant".

39. On line 1624, capitalize the "a" in "act".

40. On line 1669, change "or" to "of".

41. On line 1670, capitalize the "s" in "section".

42. On line 1676, make the "i" in "Include" lower case.

43. On line 1677, make the "t" in "Training" lower case.

44. On line 1690, capitalize the first letter of the following words, "section, illinois, power, attorney".

45. On line 1701, change "ot" to "to".

46. On line 1724, replace "discharged" with "discharge."

47. On line 1725, add a period after the word "exhausted". Delete the period at the end of the line.

48. On line 1758, change the word "or" to "of".

49. After line 1790, add the following:

"o) The contract may provide that charges for services or products may be changed with 30 days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or any person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days of the receipt of the written notice of the change. The written notice shall become an addendum to the contract."

50. Change the letters on the following lines to the next letter in the alphabet: 1791, 1793, 1804, 1809, 1817, 1834, 1846 and 1863.

51. Capitalize the "s" in the word "section" on line 1807.

52. On line 1814, change the word "authorized" to "authorizes."

53. On line 1820, change "or" to "of".

54. On line 1832, insert the word "a" between "for" and "resident".

55. On line 1887, replace "ech" with "each".

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56. After line 1909, add the following:

"j) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

- 1) The inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives, etc. on the resident advisory council;
- 2) the establishment of a separate community advisory group with persons of the residents' choosing;
- 3) finding a church or civic group to "adopt" the facility; or,
- 4) the establishment of a family council made up of families and friends of residents who live in the community."

On line 1923, change "or" to "of".

On line 1931, change "or" to "of" and replace "perpetrator" with "perpetrator".

On line 1980, replace the word "other" with "of".

On line 1997, replace the word "presence" with "presence".

On line 2004, replace the word "residents" with "resident's".

On line 2010, replace "(o)" with "(n)".

On line 2048, capitalize the first letter of "insurance".

On line 2141, print an italics "of" between the words "more" and "the".

On line 2145, add an italics "s" at the end of the word "visitor".

On line 2285, delete "(B)".

On lines 2314 and 2315, capitalize the first letters in "long-term care facility advisory board".

After line 2331, add the following:

"Section 340.1490 Private Right of Action

- a) Each resident shall have the right to maintain a private right of action against a facility as described in subsections (b) through (i) of this Section.
- b) THE OWNER AND LICENSEE OF A FACILITY ARE LIABLE TO A RESIDENT FOR ANY INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF THEIR AGENTS OR EMPLOYEES WHICH INJURES THE RESIDENT". (Section 3-601 of the Act)
- c) THE LICENSEE SHALL PAY THREE TIMES THE ACTUAL DAMAGES, OR \$500, WHICHEVER IS GREATER, AND COSTS AND ATTORNEY'S FEES TO A FACILITY RESIDENT WHOSE RIGHTS AS SPECIFIED IN PART I OF ARTICLE II OF THE ACT ARE VIOLATED. (Section 3-602 of the Act)
- d) A RESIDENT MAY MAINTAIN AN ACTION UNDER THE ACT and this part FOR ANY OTHER TYPE OF RELIEF, INCLUDING INJUNCTIVE AND DECLARATORY RELIEF,

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PERMITTED BY LAW. (Section 3-603 of the Act)

- e) ANY DAMAGES RECOVERABLE UNDER subsections (b) through (i) of this Section, INCLUDING MINIMUM DAMAGES AS PROVIDED BY THIS PART, MAY BE RECOVERED IN ANY ACTION WHICH A COURT MAY AUTHORIZE TO BE BROUGHT AS A CLASS ACTION PURSUANT TO PART 8 OF THE CIVIL PRACTICE LAW (Ill. Rev. Stat. 1991, ch. 110, par. 2-801 et seq.) [735 ILCS 5]. THE REMEDIES PROVIDED IN subsections (b) through (i) of this Section ARE IN ADDITION TO AND CUMULATIVE WITH ANY OTHER LEGAL REMEDIES AVAILABLE TO A RESIDENT. EXHAUSTION OF ANY AVAILABLE ADMINISTRATIVE REMEDIES SHALL NOT BE REQUIRED PRIOR TO COMMENCEMENT OF A SUIT HEREUNDER. (Section 3-604 of the Act)
- f) THE AMOUNT OF DAMAGES RECOVERED BY A RESIDENT IN AN ACTION BROUGHT UNDER subsections (b) through (i) of this Section SHALL BE EXEMPT FOR PURPOSES OF DETERMINING INITIAL OR CONTINUING ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER THE ILLINOIS PUBLIC AID CODE (Ill. Rev. Stat. 1991, ch. 23, par. 1-1 et seq.) [305 ILCS 5] AS NOW OR HEREAFTER AMENDED, AND SHALL NEITHER BE TAKEN INTO CONSIDERATION NOR REQUIRED TO BE APPLIED TOWARD THE PAYMENT OR PARTIAL PAYMENT OF THE COST OF MEDICAL CARE OR SERVICES AVAILABLE UNDER THE ILLINOIS PUBLIC AID CODE. (Section 3-605 of the Act)
- g) ANY WAIVER BY A RESIDENT OR LEGAL REPRESENTATIVE OF THE RIGHT TO COMMENCE AN ACTION UNDER subsections (b) through (i) of this Section, WHETHER ORAL OR IN WRITING, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT. (Section 3-606 of the Act)
- h) ANY PARTY TO AN ACTION BROUGHT UNDER subsections (b) through (i) of this Section SHALL BE ENTITLED TO A TRIAL BY JURY AND ANY WAIVER OF THE RIGHT TO A TRIAL BY JURY, WHETHER ORAL OR IN WRITING, PRIOR TO THE COMMENCEMENT OF AN ACTION, SHALL BE NULL AND VOID, AND WITHOUT LEGAL FORCE OR EFFECT. (Section 3-607 of the Act)
- i) A LICENSEE OR ITS AGENTS OR EMPLOYEES SHALL NOT TRANSFER, DISCHARGE, EVICT, HARASS, DISMISS, OR RETALIATE AGAINST A RESIDENT, A RESIDENT'S REPRESENTATIVE, OR AN EMPLOYEE OR AGENT WHO MAKES A REPORT OF resident abuse or neglect, BRINGS OR TESTIFIES IN A private right of action, OR FILES A COMPLAINT, BECAUSE OF THE REPORT, TESTIMONY OR COMPLAINT. (Section 3-608 of the Act)"

69. After line 2402, add the following:

"Section 340.1505 Medical, Nursing and Restorative Services

- a) Adequate and properly supervised nursing care shall be provided to each resident to meet the total nursing care needs of the resident.
- b) Restorative/rehabilitative nursing measures shall be practiced on a 24 hour day, seven day week basis. Those procedures requiring medical

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approval shall be ordered by the attending physician.

- 1) The licensed nurse in charge of the restorative/rehabilitative nursing program shall have successfully completed a course or other training program that includes at least 60 hours of classroom/lab training in restorative/rehabilitative nursing as evidenced by a transcript, certificate, diploma, or other written documentation from an accredited school or recognized accrediting agency such as a State or National organization of nurses of a State licensing authority. This person may be the Director of Nursing Services, Assistant Director of Nursing Services or another nurse designated by the Director of Nursing Services to be in charge of the restorative/rehabilitative nursing program.
- 2) All nursing personnel shall encourage and assist residents in maintaining good body alignment while standing, sitting, or lying in bed.
- 3) All nursing personnel shall assist and encourage residents with ambulation as often as necessary but not less than daily, unless otherwise ordered by the physician.
- 4) All nursing personnel shall teach and assist residents with safe transfer activities in an effort to help them retain or regain their maximum level of independence.
- 5) All nursing personnel shall assist residents in maintaining maximum joint range of motion and active range of motion.
- 6) Residents who are incontinent shall be evaluated for an individualized bowel and bladder program, and such a program shall be instituted when appropriate. The use of indwelling catheters shall be discouraged.
- 7) All nursing personnel shall encourage and, when necessary, teach residents to function at their maximum level in all activities of daily living.
- 8) Documentation of resident treatment and the resident's response to the treatment shall be maintained.
- c) General nursing care shall include at a minimum the following and shall be practiced on a 24-hour, seven day a week basis:
 - 1) Medications including oral, rectal, hypodermic, intravenous, and intramuscular shall be properly administered.
 - 2) Treatments and procedures, including, but not limited to, enemas,

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irrigations, catheterization, applications of dressings or bandages, and supervision of special diets shall be properly carried out as ordered by the physician.

- 3) Objective observations of changes in a resident's condition, including mental and emotional changes, as a means for analyzing and determining care required and the need for further medical evaluation and treatment shall be made by nursing staff and recorded in the resident's medical record.
- d) A regular program to prevent and treat pressure sores, heat rashes or other skin breakdown shall be practiced on a 24 hour, seven day a week basis, including but not limited to:
 - 1) An evaluation of each resident shall be conducted upon admittance and as necessary to determine the susceptibility of the resident to skin breakdown. Preventive measures and treatment measures shall be carried out by facility staff.
 - 2) Skin care shall be provided, which includes but is not limited to bathing, clean linens, and clothing each time the resident, the bed or clothing is soiled.
 - 3) Proper equipment shall be utilized to prevent or treat pressure sores, such as proper padding between pressure points, adaptive equipment, splints, and water mattresses.
 - 4) An evaluation of each resident's nutritional status shall be conducted to determine if increased nutritional support is needed in the treatment of pressure sores.
 - 5) Residents shall be assisted in being up and out of bed as much as their condition permits. The resident shall be repositioned every two hours whether in bed or out as their condition indicates.
 - e) If physical therapy, occupational therapy, speech therapy or any other specialized rehabilitative service is offered, it shall be provided by, or supervised by, a qualified professional in that specialty and upon the written order of the physician.
- 1) In addition to the provision of direct services, any such qualified professional personnel shall be used as consultants to the total restorative program and shall assist with resident evaluation, resident care planning, and inservice education.
- 2) Appropriate records shall be maintained by these personnel. Direct service to individual residents shall be documented on the

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individual clinical record as set forth in Section 340.1800(e) of the Part. A summary of program consultation and recommendations shall be documented."

70. After line 2502, add the following:
"Section 340.1535 Dental Programs

a) There shall be comprehensive treatment services for all residents which include, but are not limited to, the following:

- 1) Provision for dental treatment;
 - 2) Provision for emergency treatment by a qualified dentist; and
 - 3) Assistance in arranging transportation to the dentist for treatment.
- b) The direct care staff shall receive inservice education annually. This will be provided by a dentist or a dental hygienist.

1) Direct care staff shall be educated in ultrasonic or manual denture and partial denture cleaning techniques, if applicable.

2) Direct care staff shall be educated in proper brushing and oral health care for residents who are unable to care for their own health.

3) Direct care staff shall be educated in examining the mouth in order to recognize abnormal conditions for necessary referral.

4) Direct care staff shall be educated regarding nutrition and diet control measures and the effect on dental health.

5) Supplemental dental training films shall be included with any other health training films seen on a rotating basis.

c) The dental program shall provide for inservice education to residents and staff under direction of dental staff including, but not limited to, the following:

1) Information regarding nutrition and diet control measures that are dental health oriented.

2) Instruction in proper oral hygiene methods.

3) Instruction concerning the importance of maintenance of proper oral hygiene and, where appropriate, including family members or surrogates (as in the case of residents leaving the long-term care facility).

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d) The facility's dental program shall provide for each resident's proper daily personal dental hygiene, with the staff responsible for continuity of care that includes, but is not limited to, the following:

1) Assistance in cleaning the mouth with electric or hand brush if the resident is unable to do so.

2) Proper cleaning of dentures and partials, if applicable.

e) If applicable, each facility shall have a denture and dental prosthesis marking system that takes into account the identification marking system contained in Section 49 of the Illinois Dental Practice Act (Ill. Rev. Stat. 1991, ch. 111, par. 2349). Policies and procedures shall be written and contained in the facility's policies and procedure manual. It shall include, at a minimum, provisions for:

1) Marking individual dentures or dental prosthesis, if not marked prior to admission to the facility, within ten days of admittance; and

2) Individually marked denture cups for dental storage at night."

71. On line 2718, add as the first word of the line "physical".

72. On line 2728, add the word "physical" before the word "restraint".

73. After line 2735, add "d) The use of chemical restraints is prohibited."

74. On line 2736, add the word "physical" before the word "restraint".

75. On line 2741, italics "trial of less restrictive".

76. On line 2742, add after the word "effective", "(Section 2-106(c) of the Act)".

77. On line 2743 and 2744, add "physical conditions or" after the word "specific" and delete the words "symptom, including life saving".

78. On line 2744, add the word "physical" before the word "restraints".

79. On line 2745, delete the words "those symptoms being treated" and add the word "physical" before the word "restraints".

80. Add as the first words on line 2749, "rehabilitative nurse,".

81. On line 2758, add the word "physical" before the word "restraint".

82. On lines 2762 and 2763, delete the words "of the" and "a particular" and relocate the word "use" after the word "restraint".

83. Add the word "physical" before the word "restraint" on line 2763.

84. On line 2766, add the following after the letter "c)": "The informed consent may authorize the".

85. Add the word "physical" before the word "restraint" on line 2766 and delete the words, "may only be authorized".

86. On line 2761, add the word "physical" before the word "restraint".

87. On 2770, add the word "physical" before the word "restraint".

88. Delete line 2771 and replace it with

"d) After 50% of the period of restraint use authorized by the informed consent has expired but not less than five days before it has

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- expired,"
89. Add the following to the end of line 2777, "Information about the effectiveness of the restraint program and about any negative impact on the resident shall be provided in writing."
 90. On line 2778, 2782 and 2785, add the word "physical" before the word "restraint".
 91. On lines 2784 and 2785, capitalize the first letter of "guardianship, advocacy, commission".
 92. On line 2786, delete the words "of a restraint" and the word "particular".
 93. On line 2787, add "physical" as the first word.
 94. On line 2788, replace the word "authorization" with "informed consent".
 95. On line 2788, replace the word "that" with "physical" and add an "s" to "restraint".
 96. Add "physical" as the first word in line 2794.
 97. At the end of line 2799, add "If the resident requests that the Guardianship and Advocacy Commission to be contacted, the facility shall provide the following information in writing to the Guardianship and Advocacy Commission:
 1) the reason the physical restraint was needed;
 2) the type of physical restraint that was used;
 3) the interventions utilized or considered prior to physical restraint and the impact of those interventions;
 4) the length of time the physical restraint was to be applied; and
 5) the name and title of the facility staff person who should be contacted for further information."
 98. On line 2800, add the word "physical" before the word "restraint".
 99. On line 2807, add "the most feasible" after the word "the".
 100. On line 2808, add the word "physical" before the word "restraint" and add "most practicable" before the word "progressive".
 101. Add to the end of line 2809, "to enable the resident to attain or maintain the highest practicable physical, mental or psychosocial well being."
 102. Add the word "physical" before the word "restraint" on the following lines: 2810, 2816, 2817, 2830 and 2839.
 103. Insert the following sentence after the sentence that ends with the word "applied" on line 2839: "The effectiveness of the restraint in treating medical symptoms or as a therapeutic intervention, and any negative impact on the resident, shall be assessed by the facility throughout the period of time the restraint is used."
 104. Delete the words "the restraint is in place" on line 2840.
 105. On line 2841, add the word "either" after the word "until".
 106. On line 2841, add after the word "physician", "Or the restraint has been removed."
 107. On line 2843, replace the word "during" with the word "while" and the word "temporary" with the word "physical".
 108. On line 2844, add after the word "restraint", "is being used."
 109. Add the word "physical" before the word "restraint" on lines 2845, 2847, 2848, 2850 and 2852.
 110. After line 2853, add:

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- "(6) The effectiveness of the physical restraint in treating symptoms or as a therapeutic intervention, and any negative impact on the resident."
111. Renumber line 2854 as "7".
 112. Add the word "physical" before the word "restraint" on line 2857.
 113. On line 2858, delete the reference to "340.1580(b) and (c)" and delete the "and" after the deleted "(c)".
 114. On line 2858, delete the "(b)" following "340.1590".
 115. Add the following to the end of line 2875: "Informed consent includes information about potential negative outcomes of psychotropic medication use. Additional informed consent is not required for reduction in dosage level or deletion of a specific medication."
 116. On line 2878, add after the word "specific", the words "or suspected", and add an "s" to "condition".
 117. On line 2879, add the following after the word "record", "or to rule out the possibility of one of the conditions".
 118. After line 2985, add the following:
 "SUBPART E: MEDICATION ADMINISTRATION SERVICES"

Section 340.1650 Medication Policies and Procedures

- a) Medication administration services are provided by a facility when medications are administered by facility staff. Facilities which provide medication administration services shall comply with this Subpart and shall develop the medication administration policies and procedures required by Section 320.1620 with the approval of the pharmaceutical advisory committee that includes at least a registered pharmacist, physician, administrator and Director of Nursing Services. (This is not intended to limit the facility's organization of responsibilities. Any group which includes at least these four members may approve these policies and procedures.)
- b) No facility shall maintain a stock supply of controlled drugs or legend drugs, except for those in the emergency medication kits and convenience boxes, as described in subsections (e) and (f) of this Section.
- c) A facility may stock drugs that are regularly available without prescription at a commercial pharmacy, such as: noncontrolled cough syrups, laxatives, and analgesics. These shall be given to a resident only upon written order of the physician, dentist, or podiatrists, shall be administered from the original containers, and shall be recorded in the resident's clinical record.
- d) A facility may keep "convenience boxes" containing a reasonable number of medications normally used to treat conditions when residents suddenly become ill in nonlife-threatening situations. There shall be no more than six single doses of any one medication for each 100

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licensed beds or portion thereof. Such conditions may include, but are not limited to: convulsions, serious emotional upsets, diarrhea, infection, and severe pain. A dose shall be that amount listed by the manufacturer as the "usual dose" of the medication for adults. If the "usual dose" is two tablets, the facility may keep 12 tablets in the convenience box.

- 1) The contents and number of these "convenience boxes" shall be determined by the pharmaceutical advisory committee, and there shall be a label on the outside of each box, listing the contents.
- 2) Each "convenience box" shall be under the control of the pharmacy which supplies the contents of the box, and it shall be kept in a locked medicine room or cabinet.

- 3) No Schedule II substances shall be kept in "convenience boxes."

e) Emergency medications kits containing drugs necessary for life saving measures shall be approved by the facility's pharmaceutical advisory committee, and shall be available for immediate use at all times in locations as determined by the pharmaceutical advisory committee.

- 1) In order to provide better security for the contents of these kits, it is recommended that some type of seal be placed on each kit after it has been checked and refilled. This would ensure that the contents of each kit are intact when needed in an emergency.

- 2) These kits shall consist of no more than three single, injectable doses of only a few medications, such as those necessary to treat: cardiac arrest, acute coronary, acute cardiac failure, asthmatic or allergic reactions, acute convulsions, acute pain, shock, diabetic coma, insulin shock, and an acute respiratory infection requiring emergency administration of a starter dose of an injectable antibiotic. The kits should also contain all of the equipment needed to administer these medications, such as a tourniquet, proper size needles and syringes, and alcohol swabs. It is also permissible to have an airway in these kits.

- 3) The contents of these kits shall be labeled on the outside of each kit. The kits shall be refilled as needed. They shall be reviewed by the pharmaceutical advisory committee regarding content at least quarterly. Written documentation of this review shall be maintained.

f) Since emergency medications kits must be available for immediate use at all times, the following requirements must be met when controlled

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substances are kept as part of the emergency medication kits:

- 1) The controlled substances must be stored separately in a locked cabinet or room, and labeled as to substance and the fact that they are a part of the emergency medication kit. The label of the emergency kit shall list the substances and the specific location where they are stored.
- 2) The controlled substances must be obtained from a Drug Enforcement Administration registered hospital, pharmacy, or practitioner.
- 3) Only the director of nursing services, registered nurse on duty, licensed practical nurse on duty, consultant pharmacist or practitioner shall have access to these controlled substances.
- 4) No more than ten different controlled substances shall be kept as part of an emergency medication kit, and there shall be no more than three single, injectable doses of any one controlled substance.
- 5) These controlled substances may be administered only under the emergency conditions set forth in subsection (e)(2) of this Section and only by registered nurses, licensed practical nurses or practitioners, in compliance with 21 CFR 1306.11 and 21 CFR 1306.21 and the Department of Professional Regulation's rules for the administration of the Illinois Controlled Substance Act (77 Ill. Adm. Code 3100).
- 6) A proof-of-use sheet shall be stored with each separate controlled substance. Entries shall be made on the proof-of-use sheet by the nursing staff or practitioner when any controlled substance from the kit is used. The consultant pharmacist shall receive and file for two years a copy of all completed proof-of-use sheets.
- 7) Whenever the controlled substance portion of an emergency medication kit is opened, the consultant pharmacists shall be notified within 24 hours. During any period when this kit is opened, a shift count shall be done on all controlled substances until the kit is closed or locked by the consultant pharmacist. Shift counts are not mandatory when the kit is sealed. Proper forms for shift counts shall be kept with these portions of emergency medication kits.
- 8) The consultant pharmacist shall check the controlled substances portions of emergency medication kits at least monthly and so document on the outside of each kit.

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- 9) Failure to comply with any provision of this rule, or of any applicable provision of state or federal statutes or regulations pertaining to controlled substances shall result in loss of the privilege of having or placing controlled substances in emergency medication kits until such time as the facility can demonstrate that it is in compliance with such regulations. This is in addition to the usual methods of corrective action available to the Department, such as fines and other penalties.

- g) Oxygen may be administered in a facility either as concentrated bottled oxygen or via means of an oxygen concentrator. Storage and handling of the bottled oxygen supply shall be in accordance with the 1993 National Fire Protection Association Standards, but no subsequently amended edition of the standards, for nonflammable medical gas systems. The facility must be in compliance with directions for use of oxygen concentrators as established by the manufacturer.

Section 340.1655 Conformance with Physician's Orders

- a) All medications, including cathartics, headache remedies, or vitamins, shall be given only upon the written order of a physician. All such orders shall have the handwritten signature of the physician. (Rubber stamp signatures are not acceptable.) These medications shall be given as prescribed by the physician and at the designated time.
- b) Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written on the resident's clinical record, or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within ten working days.
- c) The staff pharmacist or consultant pharmacist shall review the medical record, including physician orders and laboratory test results, at least monthly and, based on their clinical experience and judgement, and Section 340.1655 B, determine if there are irregularities which would cause potential adverse reactions, allergies, contraindication, or ineffectiveness. This review shall be done at the facility. Documentation of this review must be entered in the clinical record. Any irregularities noted shall be reported to the attending physician, the advisory physician, and the administrator.
- d) A medication order not specifically limiting the time or number of doses shall be automatically stopped in accordance with written policies approved by the pharmaceutical advisory committee.
- e) The resident's attending physician shall be notified of medications about to be stopped so that the physician may promptly renew such

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- orders to avoid interruption of the resident's therapeutic regimen.
- f) All medications to be released to the resident, or person responsible for the resident's care, at the time of discharge or when the resident is going to be temporarily out of the facility at medication time (such as when attending a vocational training program or a weekend pass) shall be approved by the physician. A notation concerning their disposition shall be made on the resident's clinical record.

Section 340.1660 Administration of Medication

- a) Medications shall be administered as soon as possible after doses are prepared and administered by the same person who prepared the doses for administration, except under single unit dose packaged distribution systems.
- b) Each dose administered shall be properly recorded in the clinical records by the person who administers the dose.
- c) The facility shall have medication records, which shall be used and checked against the physician's orders to assure proper administration of medicine to each resident. Such records as computer-generated medication sheets may be used. Medication records shall include or be accompanied by recent photographs or other means of easy identification such as resident identification wristbands. Medication records shall contain the resident's name, diagnosis, known allergies, current medications, and, if available, a history of prescription and non-prescription medications taken by the resident during the 30 days prior to admission to the facility.
- d) Medications prescribed for one resident shall not be administered to another resident.
- e) If for any reason, a physician's medication order cannot be followed, the physician shall be notified as soon as is reasonable, depending upon the situation, and a notation made on the resident's record.
- f) Medication errors and drug reactions shall be immediately reported to the resident's physician and the consulting pharmacist. An entry thereof shall be made in the resident's clinical record and the error or reaction shall also be described in an incident report.
- g) Current medication references shall be available, such as the current edition of "Facts and Comparisons, Hospital formulary," "Physician's Desk Reference" or other suitable references.

Section 340.1665 Control of Medications

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- a) All Schedule II controlled substances shall be stored in such a manner so that two separate locks, using two different keys, must be unlocked to obtain these substances. This may be accomplished by several methods such as locked cabinets within locked medicine rooms, separately locked, securely fastened boxes (or drawers) within a locked medicine cabinet, locked portable medication carts, which are stored in locked medicine rooms when not in use, or portable medication carts containing a separate locked area within the locked medication cart, when such cart is made immobile.
- b) All discontinued medications, or those having an expiration date that has passed, and all medications of residents who have been discharged or who have expired, shall be disposed of in accordance with the written policies and procedures. This rule shall not apply to residents who have been temporarily transferred to a hospital or who are on a temporary home visit. Medications for such persons shall be kept in the facility until such time as the resident expires or is discharged from the facility.
- c) Inventory Controls
 - 1) For all Schedule II substances, a controlled substances record shall be maintained which lists on separate sheets, for each type and strength of Schedule II substances, the following information: date, time administered, name of resident, dose, physician's name, signature of person administering dose, and number of doses remaining.
 - 2) The pharmaceutical advisory committee may also require that other medications shall be subject to such inventory records.

Section 340.1670 Labeling and Storage of Medication

- a) The label of each individual multi-dose medication container filled by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name, strength and quantity of the drug, date this container was last filled, the initials of the pharmacist filling the prescription, the identity of the pharmacy, and any necessary special instructions. If the individual multi-dose medication container is dispensed by a physician from his own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist, and prescription number.
- b) Each single unit or unit dose package shall bear the proprietary or nonproprietary name of the drug, strength of dose and total contents delivered, lot or control number, and expiration date, if applicable. The names of the resident and the physician do not have to be on the
 - c) Medication in containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Medications in containers having no labels shall be destroyed in accordance with Federal and State laws.
 - d) The medications of each resident shall be kept and stored in their originally received containers. Medications shall not be transferred between containers, except that a licensed nurse may remove medication from original containers and place it in other containers to be sent with a resident when the resident will be out of the facility at the time of scheduled administration of medication, as, for instance, when the resident is on a home visit or away from the facility for employment, workshop, or educational activities. When medication is sent out of the facility with the resident, it shall be labeled by the nurse with the name of the resident, name of the medication, instructions for taking, and any other appropriate information.
 - e) All medications for external use shall be kept in a separate area in the medicine cabinet, medicine room, or mobile medication cart.
 - f) All poisonous substances and other hazardous compounds, such as sterilization solutions, irrigation solutions, antiseptics, and diagnostic reagents, shall be kept in a separate locked container away from medications.
 - g) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked box within a refrigerator or a locked refrigerator, at or near the nurses' station or in a refrigerator within a locked medication room.

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- label of the package, but they must be identified with the package in such a manner as to assure that the drug is administered to the right resident. Appropriate accessory and cautionary statements and any necessary special instruction shall be included, as applicable. Hardware for storing and delivering the medications shall have a label bearing the identity of the dispensing pharmacy. The pharmacist shall provide written verification of the date the medications were dispensed and the initials of the pharmacist who reviewed and verified the medications on hand. The pharmacist need not store such verification at the facility but shall readily make it available to the Department upon request. The lot or control number need not appear on unit dose packages if the dispensing pharmacy has a system for identifying those doses recalled by the manufacturer/distributor or if the dispensing pharmacy will recall and destroy all dispensed doses of a recalled medication, irrespective of a manufacturer's/distributor's specifically recalled lot.
- c) Medication in containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Medications in containers having no labels shall be destroyed in accordance with Federal and State laws.
- d) The medications of each resident shall be kept and stored in their originally received containers. Medications shall not be transferred between containers, except that a licensed nurse may remove medication from original containers and place it in other containers to be sent with a resident when the resident will be out of the facility at the time of scheduled administration of medication, as, for instance, when the resident is on a home visit or away from the facility for employment, workshop, or educational activities. When medication is sent out of the facility with the resident, it shall be labeled by the nurse with the name of the resident, name of the medication, instructions for taking, and any other appropriate information.
- e) All medications for external use shall be kept in a separate area in the medicine cabinet, medicine room, or mobile medication cart.
- f) All poisonous substances and other hazardous compounds, such as sterilization solutions, irrigation solutions, antiseptics, and diagnostic reagents, shall be kept in a separate locked container away from medications.
- g) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked box within a refrigerator or a locked refrigerator, at or near the nurses' station or in a refrigerator within a locked medication room.

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- h) The key to the medicine cabinet, medicine room, or mobile medication cart shall be the responsibility of, and in the possession of, the persons authorized to handle and administer medications, at all times.
- i) All medications for all residents shall be properly labeled and stored at, or near, the nurses' station, in a locked cabinet, a locked medication room, or one or more locked mobile medication carts of satisfactory design for such storage.
- 1) These cabinets, rooms, and carts shall be well lighted and of sufficient size to permit storage without crowding.
 - 2) All mobile medication carts shall be under the visual control of the responsible nurse at all times when not stored safely and securely either in a locked room or otherwise made immobile.
119. On line 2986, reletter "g" to "f".
120. On line 3081, reletter "g" to "c".
121. On line 3281, reletter "g" to "h".
122. On lines 3283 and 3284, replace "full-time person, suited by training and experience," with "food service supervisor who is a dietitian or dietetic service supervisor, and".
123. After line 3289, add:
- "b) If the food service supervisor is not a dietitian, the food service supervisor shall have frequent and regularly scheduled consultation from a dietitian. This consultation, given in the facility, shall include consultation and training in all food service procedures, such as menu planning and review, food preparation, food storage, food service, safety, sanitation and management of therapeutic diets. Inservice education in appropriate subject areas shall be given to all facility staff."
124. Reletter "b)" to "c)" on line 3289 and "c)" to "d)" on line 3297.
125. On line 3482, reletter "h" to "i".
126. After line 3706, add the following:
- "f) Every facility shall follow an acceptable plan to provide for sterile equipment and supplies, such as needles, syringes, catheters, and dressings, such as:
- 1) Use of an autoclave located in a central sterilization area, clean utility area, or nurses' station.
 - 2) Use of individually wrapped sterile dressing, disposable syringes, needles, catheters, and gloves, which shall be disposed of after a single use.
 - 3) Formal plan with another facility for the autoclaving of equipment and supplies.
 - 4) Other alternative methods when approved on an individual basis in

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- writing from the Department based on a written request from the facility, giving in detail the method proposed to be used and which method meets equivalent criteria for proper sterilization for these items to be sterilized.
- g) Every facility shall sanitize bed pans, urinals, wash basins, emesis basins, enema equipment, and similar patient care utensils as follows:
- 1) Individual bedpans, urinals, wash basins, and similar equipment shall be washed and rinsed after each use, and be sanitized at least weekly. If individual equipment is not provided, the equipment shall be washed, rinsed, and sanitized after each use.
 - 2) Utensils shall be pre-flushed prior to washing. Utensils shall be washed in a hot detergent solution that is maintained clean. After washing, utensils shall be rinsed free of detergents with clean water.
 - 3) Utensils shall be sanitized, either mechanically or manually, through the use of steam, hot water, or chemicals approved by the U.S. Environmental Protection Agency, formulated for the sanitization of patient care utensils, and shall be used in accordance with label instructions.
 - 4) Patient care utensil sanitization shall be completed in the soiled utility room."
127. On line 3712, after the word "Drugs", double space, delete the words "The following" and start a new paragraph with a capital word "Long".
128. Insert the word "subsection" before the "B" on line 3714 and before the "C" on line 3715.
129. On line 3730, add the words, "EXAMPLES OF" at the beginning.
130. On line 3763, after the word "Drugs", double space and start a new paragraph with the word "Use".
131. On line 3763 and 3764, delete the words "the listed".
132. Add "EXAMPLES OF" at the beginning of line 3792 and 3799.
133. Delete line 3802.
134. On line 3823, after the word "Induction", double space and start a new paragraph with the word "Drugs".
135. Add "EXAMPLES OF" at the beginning of line 3837.
136. Line up lines 3866 through 3876 under the first letter of "Miscellaneous" on line 3865.
137. At the beginning of line 3879, add "EXAMPLES OF" and delete "(EXAMPLES)".
138. On line delete ",others".
139. Delete line 3884.
140. Relocate line 3886 between lines 3881 and 3882.
141. On the line after the relocated line in 140 above, add to the first column "Aprobaritol" and to the second column "(Alurate)".
142. At the beginning of line 3889, add "EXAMPLES OF".

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143. Relocate line 3893 and 3894 between lines 3890 and 3891.
144. At the beginning of line 3912, add "EXAMPLES OF".
145. Line up lines 3959, 3960 and 3961 with the "5" in line 3958.
146. On line 3973, add an "s" to the beginning of the word "chizophreniform".
147. Add the word "subsection" to the beginning of line 4044.
148. After line 10, add "340.1115 Federal Veterans' Regulations".
149. After line 760, add the following:
- "Section 340.1115 Federal Veterans' Regulations
- The facility shall comply with the following:
- General program requirements for construction and acquisition of and equipment for State home facilities (38 CFR 17.177);
 - Domiciliary and nursing home care program (38 CFR 17.178);
 - State home hospital program (38 CFR 17.179); and
 - General design guidelines and standards (38 CFR 17.183)."

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

- In line 65, add "Physical" before "Restrains".
- In line 112, add "emergency expired November 18, 1994;" and changed "18" to "19".
- In line 186, delete "or orderly".
- After line 202, add the definition of "Autoclave - an apparatus for sterilizing by superheated steam under pressure".
- In line 215, 514, 3348, 3372, 3390, 3407-08, 3426, and 3517-18, change "as amended by" to "see".
- In line 250, add a comma at the end.
- After line 290, add the definition of "Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services."
- In line 327, delete the comma.
- In line 360 and 378, add a period after the closing bracket.
- In line 515, delete the period.
- In line 580, delete the colon.

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- In line 649, delete the commas, add "and" after "regulations" and delete "and statutes".
- In line 650, delete "or referenced".
- In line 660, delete "statutes and".
- In lines 661-664, delete the text.
- In line 665, change "D" to "A".
- In line 685, change "E" to "B".
- In line 688, change "F" to "C".
- In line 690, change "G" to "D".
- In line 691, change "H" to "E".
- In line 692, delete the text and add "b) The following federal and State statutes are referenced in this Part:
 - Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);
 - Social Security Act (42 U.S.C. 301 et seq.);
 - Veterans' Benefits (38 U.S.C. 38 U.S.C. 641 et seq.);
- In line 693-726, change the subsection labels from "A-P" to "4-19".
- In line 728, change "5" to "c" and add "The following" before "State" and "are referenced" after "rules".
- In lines 729-751, change the subsection labels from "A-K" to "1-11".
- In line 752, change "b" to "d".
- In line 756, change "c" to "e".
- In lines 931, 3718, 3988, 4061, 4126, 4192, change "state" to "State".
- In line 937, add "(Section 3-212(a) of the Act)" after "announced".
- In line 949, delete "s" from "Sections" and "3-212(a) and".
- In line 1305, add "a" after "repeat".
- In line 1474, change "value" to "valve".
- In line 1909, delete the "S" from "RESIDENCES".

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33. In line 1995, add a comma after "OMBUDSMAN".
34. In lines 2095-96, delete the quotation marks.
35. In lines 2229-30, delete "as now or hereafter amended".
36. In line 2282, change "MADE" to "MAKE".
37. In line 2857, add hyphens after "24" and "seven".
38. In line 2867, change "or" to "of" and "of" to "or".
39. In lines 2893 and 2906-07, add hyphens after "24" and between "seven day a week".
40. In line 2926, add an "s" after "resident".
41. In line 2928, add an "s" after "condition" and delete the "s" after "indicates".
42. In line 2975, delete "AIDS-related complex (ARC)".
43. In line 3030, add an "s" to "PHYSICIAN".
44. In line 3031, change "HIS" to "THEIR" and "DIAGNOSIS" to "DIAGNOSES".
45. In line 3032, change "PROGNOSIS" to "PROGNOSSES" and add an a "s" to "RESIDENT".
46. In line 3114, add "and" after the semicolon.
47. In line 3182, add "and" before "after".
48. In line 3236, add a comma after "medical".
49. In line 3286, add a comma after "medical".
50. In line 3307, add a comma after "include".
51. In line 3335, add "(Section 2-106(c) of the Act)" after "being".
52. In line 3337, delete the comma after "nurse" and add an "s and" after "nurse".
53. In lines 3344-45, change "(e)" to "(c)" and "as amended by Public Act" to "see P.A.".
 54. In line 3446, add an "and" before "any".

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55. In line 3467, change the period to a semicolon and add "and".
56. In line 3496, delete the "s" from "conditions".
57. In lines 3483 and 3488, change "as added by" to "see".
58. In lines 3527, 3868, 3984 and 3986, change "Federal" to "federal".
59. In line 3544, delete the comma after "approved".
60. In line 3545, add a comma after "writing".
61. In line 3550, change "resident's" to "residents".
62. In line 3564, change "their" to "his or her".
63. In line 3567, add a comma after "area".
64. In line 3626, delete the "s" from "podiatrists".
65. In line 3633, delete the semicolon after "to;".
66. In line 3594, delete the subsection label "(f)" and indent under "(e) (3)".
67. In line 3631, change "nor" to "no".
68. In line 3818, change "of" to "for".
69. In line 3917, change "individual's" to "individuals".
70. In line 4019, add a comma after "record".
71. In line 4020, add a comma after "goals".
72. In line 4249, add "and" after "milk,".
73. In line 4251, 4252, 4254, and 4261, add a hyphen between "one" and "half".
74. In line 4281, add an "s" after "vegetable".
75. In line 4455, delete the comma.
76. In line 4590, add a comma after "e.g.".
77. In line 4692, add "of" after "maintenance" and a comma after "in".
78. In line 4795, add "to" after "equal".

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79. In line 4847, delete ", others" after "Butisol".

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Rules:

The Department of Public Health is adopting these rules to provide for the licensure of Illinois veterans homes. The Department had emergency rules in effect from June 21, 1994 to November 18, 1994. One home was eligible for licensure during that time period, the Anna Veterans Home, a newly constructed 50-bed skilled facility in Anna, Illinois. State licensure is necessary for the federal Department of Veterans' Affairs to provide funding for the operation of the facility. Because the home is privately operated, it does not fall under the exemption in the Nursing Home Care Act for facilities operated by the federal government or by the State of Illinois. Although the new facility will be licensed under the Nursing Home Care Act, new rules, rather than amendments to the existing licensure rules, are necessary to avoid duplication of the federal survey process. The federal government has an extensive inspection program for Veterans' facilities and regulations addressing physical plant, staffing, resident services, and equipment, which are incorporated by reference in these rules.

These rules set forth requirements necessary for the Department to issue a license for a veterans' home under the Nursing Home Care Act. Application requirements, definitions, and provisions for inspection, waivers, and determination of violations are included in Subpart A of the rules. Subpart B sets forth provisions for policies and facility records, including disaster preparedness and personnel policies. Resident rights requirements are included in Subpart C. Health services such as communicable disease policies, life-sustaining treatments and the use of restraints are addressed in Subpart D. Subpart E contains requirements for medication administration services. Subpart F contains requirements for recreational and activity programs, social services and work program. Resident records requirements are set forth in Subpart G. Food service

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requirements, such as therapeutic diets and meal planning, are contained in Subpart H. Physical plant services, furnishings, equipment and supplies are included in Subpart I.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187

The full text of the Adopted Rules begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340

ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section	
340.1000	Definitions
340.1010	Incorporated and Referenced Materials
340.1110	General Requirements
340.1115	Federal Veterans' Regulations
340.1120	Application for License
340.1130	Criteria for Adverse Licensure Actions
340.1140	Denial of Initial License
340.1150	Revocation or Denial of Renewal of License
340.1160	Inspections, Surveys, Evaluations, and Consultations
340.1170	Presentation of Findings by the Department
340.1190	Ownership Disclosure
340.1200	Monitor and Receivership
340.1210	Determination of a Violation
340.1220	Determination of the Level of a Violation
340.1230	Plans of Correction and Reports of Correction
340.1240	Calculation of Penalties
340.1245	Conditions for Assessment of Penalties
340.1250	Reduction or Waiver of Penalties
340.1260	Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section	
340.1300	Facility Policies
340.1310	Admission and Discharge Policies
340.1320	Disaster Preparedness
340.1330	Serious Incidents and Accidents
340.1335	Infection Control
340.1340	Facility Record Requirements
340.1350	Personnel Policies
340.1360	Initial Health Evaluation for Employees
340.1370	Administrator
340.1375	Personnel Requirements

SUBPART C: RESIDENT RIGHTS

Section

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Implementation of Resident Rights and Facility Responsibilities

340.1400	General
340.1410	Contract Between Resident and Facility
340.1420	Residents' Advisory Council
340.1430	Abuse and Neglect
340.1440	Communication and Visitation
340.1450	Resident's Funds
340.1460	Transfer or Discharge
340.1470	Complaint Procedures
340.1480	Private Right of Action
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SUBPART D: HEALTH SERVICES

Section	
340.1500	Medical Care Policies
340.1505	Medical, Nursing and Restorative Services
340.1510	Communicable Disease Policies
340.1520	Tuberculin Skin Test Procedures
340.1530	Physician Services
340.1535	Dental Programs
340.1540	Life-Sustaining Treatments
340.1550	Obstetrical and Gynecological Care
340.1560	Nursing Personnel
340.1570	Personal Care
340.1580	Restraints
340.1590	Nonemergency Use of Physical Restraints
340.1600	Emergency Use of Physical Restraints
340.1610	Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620	Medication Administration
340.1630	Self-Administration of Medication

SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section	
340.1650	Medication Policies and Procedures
340.1655	Conformance with Physician's Orders
340.1660	Administration of Medication
340.1665	Control of Medication
340.1670	Labeling and Storage of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section	
340.1700	Recreational and Activity Programs
340.1710	Social Services
340.1720	Work Programs

SUBPART G: RESIDENT RECORDS

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Section

340.1800 Resident Record Requirements
 340.1810 Content of Medical Record
 340.1820 Records Pertaining to Resident's Property
 340.1830 Retention, Transfer, and Inspection of Records
 340.1840 Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section

340.1900 Food Service Staff
 340.1910 Diet Orders
 340.1920 Adequacy of Diet and Meal Pattern
 340.1930 Therapeutic Diets
 340.1940 Menu Planning
 340.1950 Food Preparation and Service
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SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section

340.2000 Maintenance
 340.2010 Water Supply, Sewage Disposal and Plumbing
 340.2020 Housekeeping
 340.2030 Laundry Services
 340.2040 Furnishings
 340.2050 Equipment and Supplies

TABLE A Disaster Preparedness Parameters--Relative Humidity and Temperature

TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 4151-101 et seq.) [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency expired November 18, 1994; adopted at 19 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 340.1000 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse - any physical or mental injury or sexual assault inflicted on a

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resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention. Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability. Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent. Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent. Sexual assault.

Access - the right to:

Enter any facility;
Communicate privately and without restriction with any resident who consents to the communication;
Seek consent to communicate privately and without restriction with any resident;
Inspect the clinical and other records of a resident with the express written consent of the resident;
Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act - as used in this Part, the Nursing Home Care Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 4151-101 et seq.) [210 ILCS 45].

Activity Program - a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adequate - enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning - a notice to a facility issued by the Department under Section 340.1220 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in

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the facility violates the Act or the Department's rules, but is not a Type A or Type B violation.

Administrator - the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate - a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate - means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide - any person providing direct personal care, training or habilitation services to residents.

Applicant - any person making application for a license. (Section 1-107 of the Act)

Appropriate - term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment - the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist - a person who is certified or is eligible for a certificate of clinical competence in audiology granted by the American Speech and Hearing Association under its requirements in effect on the publication of this provision or meets the educational requirements for certification, and is in the process of accumulating the supervised experience required for certification.

Autoclave - an apparatus for sterilizing by superheated steam under pressure.

Certification for Title XVIII and XIX - the issuance of a document by

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the Department to the Department of Health and Human Services or the Department of Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse - is a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint - any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act, see P.A. 88-413, effective August 20, 1993)

Continuing Care Contract - a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract - a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience - any action taken by the facility to control resident behavior or maintain a resident, that is not in the resident's best interest, with less effort or expense than would otherwise be required by the facility.

Corporal Punishment - painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident - failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist - any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act (Ill. Rev. Stat. 1991, ch. 111, pars. 2301 et seq.) [225 ILCS 25].

Department - as used in this Part means the Illinois Department of Public Health.

Developmental Disability - means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

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is manifested before the person attains age 22; is likely to continue indefinitely; results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor - a person who:

is a qualified dietitian; or is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or has successfully completed a Dietary Manager's Association approved dietary managers course; or is certified as a dietary manager by the Dietary Manager's Association; or has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian - a person who:

is eligible for registration by the American Dietetic Association; or has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Direct Supervision - work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

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Director - the Director of Public Health or his designee. (Section 1-110 of the Act)

Director of Nursing Service - the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge - the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline - any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part - an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency - a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Existing Long-Term Care Facility - any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility or long-term care facility - A private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code (Ill. Rev. Stat. 1991, ch. 34, pars. 5-21001 et seq. and 5-22001 et seq.) [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 U.S.C.A. 1395 et seq. and 1396 et seq.). A "facility" may consist of more than one building as long as the buildings are on the same tract or adjacent tracts of land. However, there shall be no more than one "facility" in any one

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building, "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation as organized facilities thereof, which is required to be licensed under the Hospital Licensing Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 142 et seq.) [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 (Ill. Rev. Stat. 1991, ch. 23, pars. 2211 et seq.) [225 ILCS 101];

Any "Community Living Facility" as defined in the Community Living Facilities Licensing Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 4181 et seq.) [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act (Ill. Rev. Stat. 1991, ch. 91 1/2, pars. 621 et seq.) [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Mental Health and Developmental Disabilities as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act (Ill. Rev. Stat. 1991, ch. 91 1/2, pars. 1701 et seq.) [210 ILCS 135]; or

Any Supportive Residence licensed under the Supportive Residences Licensing Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 9001 et seq.) [210 ILCS 65]. (Section 1-113 of the Act)

Financial Resources - having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time - means on duty a minimum of 36 hours, four days per week.

Goal - an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the

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welfare of the individuals it serves.

Guardian - a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 (Ill. Rev. Stat. 1991, ch. 110 1/2, pars. 1-1 et seq.) [755 ILCS 5]. (Section 1-114 of the Act)

Hospitalization - the care and treatment of a person in a hospital as an in-patient.

Illinois Veterans' Home - a facility owned but not operated by the Illinois Department of Veterans' Affairs.

Interdisciplinary Team - a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. The Interdisciplinary Team includes at least the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and care givers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator - a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act (Ill. Rev. Stat. 1991, ch. 111, pars. 3651 et seq.) [225 ILCS 70].

Licensed Practical Nurse - a person with a valid Illinois license to practice as a practical nurse.

Licensee - the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract - a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance - food, shelter, and laundry services. (Section 1-116 of the Act)

Medical Record Practitioner - a person who is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of

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medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Misappropriation of Property - using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Monitor - a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect - a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act)

Neglect means:

The failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or
a resident required medical treatment as a result of the alleged failure; or
the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility - any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 3501 et seq.) [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Care - a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and

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reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Objective - an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) - a person who is registered with the State of Illinois as an occupational therapist under the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. 1991, ch. 111, par. 3701 et seq.) [225 ILCS 75].

Occupational Therapy Assistant - a person who is registered with the State of Illinois as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator - the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury - occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight - general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational, and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner - the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person - any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care - assistance with meals, dressing, movement, bathing, or other personal needs, or maintenance, or general supervision and

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oversight of the physical and mental well being of an individual, who, is incapable of maintaining a private, independent residence or who is incapable of managing his person whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered - a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 4121 et seq.) [225 ILCS 85].

Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act, see P.A. 88-413, effective August 20, 1993)

Physical Therapist Assistant - a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist - a person who is registered as a physical therapist under the Illinois Physical Therapy Act (Ill. Rev. Stat. 1991, ch. 111, pars. 4251 et seq.) [225 ILCS 90].

Physician - any person licensed by the State of Illinois to practice medicine in all its branches as provided in the Medical Practice Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 4400-1 et seq.) [225 ILCS 60].

Probationary License - an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist - a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist - a person who is licensed by the State of Illinois to practice clinical psychology under the Clinical Psychologist Licensing Act (Ill. Rev. Stat. 1991, ch. 111, pars. 5351 et seq.) [225 ILCS 15].

Qualified Professional - a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by the eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

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Reasonable visiting hours - any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse - a person with a valid Illinois license to practice as a registered professional nurse under the Illinois Nursing Act of 1987.

Repeat violation - for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Resident - person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director - the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative - a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care - a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Restraint of a Resident - use of a physical or chemical restraint.

Sanitization - the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory - same as adequate.

Seclusion - the retention of a resident alone in a room which the resident cannot open.

Self Preservation - the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

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Social Worker, Qualified - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act (Ill. Rev. Stat. 1991, ch. 111, pars. 6351 et seq.) [225 ILCS 20].

State Fire Marshal - the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization - the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a corporation - any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Student Intern - means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:
an academic credit requirement in a high school or undergraduate institution, or
immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 340.1130(b)(1).

Sufficient - same as adequate.

Supervision - authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in this Part, the supervisor must be on the premises if the person does not meet assistant level (two-year training program) qualifications specified in these definitions.

Therapeutic Recreation Specialist - a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a

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Therapeutic Recreation Specialist.

Time Out - removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII - Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX - Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer - a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation - a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Universal Progress Notes - a common record with periodic narrative documentation by all persons involved in resident care.

Valid License - a license which is unsuspended, unrevoked and unexpired.

Section 340.1010 Incorporated and Referenced Materials

- a) The following regulations and standards are incorporated in this Part:
- 1) American Dietetic Association, Minimum Academic Requirements for American Dietetic Association Membership (1980), which may be obtained from the American Dietetic Association, 430 North Michigan Avenue, Chicago, Illinois 60611.
 - 2) National Council for Therapeutic Recreation Certification, Requirements for Therapeutic Recreation Certification (1985), which may be obtained from the National Council for Therapeutic Recreation Certification, P.O. Box 16126, Alexandria, Virginia 22302.
 - 3) Federal regulations:
 - A) U.S. Public Health Service, Guidelines for the Prevention and Control of Nosocomial Infections, which includes the

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following guidelines and may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333.

- i) Guideline for Prevention of Catheter-Associated Urinary Tract Infections (October 1981);
- ii) Guideline for Handwashing and Hospital Environmental Control (1985);
- iii) Guideline for Prevention of Intravascular Infections (October 1981);
- iv) Guideline for Prevention of Surgical Wound Infections (March 1982; Revised 1985);
- v) Guideline for Prevention of Nosocomial Pneumonia (July 1982);
- vi) Guideline for Isolation Precautions in Hospitals (July 1983);
- vii) Guideline for Infection Control in Hospital Personnel (July 1983);

B) General program requirements for construction and acquisition of and equipment for State home facilities (38 CFR 17.177);

C) Domiciliary and nursing home care program (38 CFR 17.178);

D) State home hospital program (38 CFR 17.179);

E) General design guidelines and standards (38 CFR 17.183).

b) The following federal and State statutes are referenced in this Part:

- 1) Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);
- 2) Social Security Act (42 U.S.C. 301 et seq.);
- 3) Veterans' Benefits (38 U.S.C. 101; 38 U.S.C. 641 et seq.);
- 4) The Illinois Dental Practice Act (Ill. Rev. Stat. 1991, ch. 111, pars. 2301 et seq.) [225 ILCS 25];
- 5) The Election Code (Ill. Rev. Stat. 1991, ch. 46, pars. 1-1 et seq.) [10 ILCS 5];
- 6) Freedom of Information Act (Ill. Rev. Stat. 1991, ch. 116, pars. 201 et seq.) [5 ILCS 140];
- 7) General Not For Profit Corporation Act of 1986 (Ill. Rev. Stat. 1991, ch. 32, pars. 101.01 et seq.) [805 ILCS 105];
- 8) Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1151 et seq.) [20 ILCS 3960];
- 9) The Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 3501 et seq.) [225 ILCS 65];
- 10) Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. 1991, ch. 111, pars. 3701 et seq.) [225 ILCS 75];
- 11) Illinois Physical Therapy Act (Ill. Rev. Stat. 1991, ch. 111, pars. 4251 et seq.) [225 ILCS 90];
- 12) Life Care Facilities Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 4160-1 et seq.) [210 ILCS 40];
- 13) Medical Practice Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 4400-1 et seq.) [225 ILCS 60];

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- 14) Mental Health and Developmental Disabilities Code (Ill. Rev. Stat. 1991, ch. 91 1/2, pars. 1-100 et seq.) [405 ILCS 5];
- 15) Nursing Home Administrators Licensing and Disciplinary Act (Ill. Rev. Stat. 1991, ch. 111, pars. 3651 et seq.) [225 ILCS 70];
- 16) Nursing Home Care Act (Ill. Rev. Stat. 1991, ch. 111 1/2 pars. 4151-401 et seq.) [210 ILCS 45];
- 17) Pharmacy Practice Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 4121 et seq.) [225 ILCS 85];
- 18) Probate Act of 1975 (Ill. Rev. Stat. 1991, ch. 110 1/2, pars. 1-1 et seq.) [755 ILCS 5];
- 19) The Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, pars. 1-1 et seq.) [305 ILCS 5].
- c) The following State of Illinois rules are referenced:
 - 1) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690);
 - 2) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693);
 - 3) Department of Public Health, Food Service Sanitation (77 Ill. Adm. Code 750);
 - 4) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890);
 - 5) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905);
 - 6) Department of Public Health, Drinking Water Systems (77 Ill. Adm. Code 900);
 - 7) Department of Public Health, Illinois Water Well Construction Code (77 Ill. Adm. Code 920);
 - 8) Department of Public Health, Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925);
 - 9) Department of Professional Regulation, Controlled Substances Act (77 Ill. Adm. Code 3100);
 - 10) Department of Alcoholism and Substance Abuse, Alcoholism and Substance Abuse Treatment, Intervention and Research Programs (77 Ill. Adm. Code 2058);
 - 11) Department of Public Aid, Access to Cost Reports (89 Ill. Adm. Code 140.544).
- d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- e) All citations to federal regulations in this Part concern the specified regulation in the 1991 Code of Federal Regulations, unless another date is specified.

Section 340.1110 General Requirements

- a) This Part applies to the licensure of Illinois Veterans' Homes, subject to the terms and conditions of the Nursing Home Care Act (Ill.

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- Rev. Stat. 1991, ch. 111 1/2, pars. 4151- 101 et seq.) [210 ILCS 45].
- b) The license issued to each licensee shall state the *maximum bed capacity for which it is granted, the date the license was issued and the expiration date*, licensee's name, facility name, address, the classification by level of service authorized for that facility. (Section 3-110 of the Act)
- c) *A facility shall admit only that number of residents for which it is licensed.* (Section 2-209 of the Act)
- d) A facility licensed under the Act shall not use in its title or description "Hospital", "Sanitarium", "Sanatorium" or any other word or description in its title or advertisements that indicates that a type of service is provided by the facility that the facility is not licensed to provide or, in fact, does not provide.
- e) Any person constructing or modifying a long-term care facility or portion thereof shall obtain the required permit from the Health Facilities Planning Board to be eligible for licensure for that facility or portion thereof (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1163.1 et seq.) [20 ILCS 3960].

Section 340.1115 Federal Veterans' Regulations

The facility shall comply with the following:

- a) General program requirements for construction and acquisition of and equipment for State home facilities (38 CFR 17.177);
- b) Domiciliary and nursing home care program (38 CFR 17.178);
- c) State home hospital program (38 CFR 17.179); and
- d) General design guidelines and standards (38 CFR 17.183).

Section 340.1120 Application for License

- a) Application for a license to establish or operate a facility shall be made in writing and submitted, with other such information as the Department may require, on forms provided by the Department.
- b) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when a new license is issued to operate the facility; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.
- c) The Department may issue licenses or renewals for periods of not less than six (6) months nor more than eighteen (18) months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. Fees for such licenses shall be prorated on the basis of the portion of a

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- year for which they are issued. (Section 3-110 of the Act) The prorated fee will be as follows:
- 1) Six (6) months to less than twelve (12) months - \$150.00;
 - 2) Twelve (12) months to eighteen (18) months - \$200.00;
 - 3) Eighteen (18) months to less than twenty-four (24) months - \$350.00;
 - 4) Twenty-four (24) months to thirty (30) months - \$400.00.
- d) The licensee shall qualify for issuance of a two-year license if the licensee has met the criteria contained in Section 3-110(b) of the Act for the last twenty-four (24) consecutive months.

Section 340.1130 Criteria for Adverse Licensure Actions

- a) Adverse licensure actions are determinations to deny the issuance of an initial license, to deny the issuance of a renewal of a license, or to revoke the current license of a facility.
- b) The Director may take adverse licensure action against a facility based on a finding that one or more of the following criteria are met:
 - 1) *There has been a substantial failure by the facility to comply with the Act or this Part.* (Section 3-119(a)(1) of the Act) For purposes of this provision, substantial failure is a failure to meet the requirements of the Act and this Part that is other than a variance from strict and literal performance that results only in unimportant omissions or defects given the particular circumstances involved.
 - 2) *Conviction of the licensee, or of the applicant, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, during the previous five years as shown by a certified copy of the record of the court of conviction.* (Section 3-119 (a)(2) of the Act)
 - 3) *Personnel (or, for an initial applicant, the proposed personnel) are insufficient in number or unqualified by training or experience to properly care for the number and type of residents served by the facility.* (Section 3-119(a)(3) of the Act)
 - 4) *Financial or other resources are insufficient to conduct or operate the facility in accordance with this Part.* (Section 3-119(a)(4) of the Act)
 - 5) *The facility is not under the direct supervision of a full-time administrator as required by Section 340.1370.* (Section 3-119(a)(5) of the Act)
 - 6) The rights of residents of the facility have been violated by any of the following actions:
 - A) A pervasive pattern of cruelty or indifference to residents has occurred in the facility.
 - B) The facility has appropriated or converted for its use the property of a resident without the resident's written consent or the consent of the resident's legal guardian.
 - C) The facility has secured property, or a bequest of property,

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from a resident by undue influence.

- 7) False information has been knowingly submitted by the facility either on the licensure or renewal application forms or during the course of an inspection or survey of the facility.
- 8) *Refusal to permit entry or inspection of the facility by agents of the Department.* (Section 3-214 of the Act).
- c) The Director shall consider all available evidence at the time of the determination, including the history of the facility and the applicant in complying with the Act and this Part, notices of violations that have been issued to the facility and the applicant, findings of surveys and inspections, and any other evidence provided by the facility, residents, law enforcement officials and other interested individuals.

Section 340.1140 Denial of Initial License

- a) In addition to the criteria outlined in Section 340.1130, the Director may deny the issuance of an initial license based on revocation of a facility license. During the previous five years, if such prior license was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant; or any affiliate of the individual applicant or controlling owner of the applicant and such individual applicant, controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior license; provided, however, that the denial of an application for a license pursuant to this Part must be supported by evidence that such prior revocation renders the applicant unqualified or incapable of meeting or maintaining a facility in accordance with the Act and this Part. (Section 3-117 (5) of the Act)
- b) *Immediately upon denial of any application or reapplication for a license, the Department shall notify the applicant in writing. The notice of denial shall include a clear and concise statement of violations of Section 3-117 of the Act on which denial is based and notice of the opportunity for hearing.* (Section 3-118 of the Act)

Section 340.1150 Revocation or Denial of Renewal of License

- a) The license of a facility shall be revoked or application for renewal of a license of a facility shall be denied and the license of the facility shall be allowed to expire when the Director finds that a condition, occurrence, or situation in the facility meets any of the criteria specified in Section 340.1130(b).
- b) Pursuant to Section 10-65 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1010-65) [5 ILCS 100/10-65], licensees who are individuals are subject to denial of renewal of licensure if the individual is more than 30 days delinquent in complying with a child support order.
- c) The license of a facility will be revoked when the facility fails to

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abate or eliminate a Type A violation.

- d) When the Director determines that the license of a facility is to be revoked or an application for renewal of a license of a facility is to be denied, the Department shall notify the facility. The notice to the facility shall be in writing and shall include:
 - 1) *A clear and concise statement of the violations on which the nonrenewal or revocation is based.* (Section 3-119(b) of the Act)
 - The statement shall include a citation to the provisions of the Act or this Part on which the application for renewal is being revoked or denied.
 - 2) A statement of the date on which revocation will take effect or the current license of the facility will expire as provided in Section 3-119(d) of the Act.
 - 3) *A notice of the opportunity of the applicant for a hearing to contest the nonrenewal or revocation of the license.* (Section 3-119(b) and (c) of the Act)
 - e) *The Department may extend the effective date of the license revocation or expiration in any case in order to permit orderly removal and relocation of residents.* (Section 3-119(d)(3) of the Act)

Section 340.1160 Inspections, Surveys, Evaluations, and Consultations

The terms survey, inspection, and evaluation are synonymous. These terms refer to the overall examination of compliance with the Act and this Part.

- a) All facilities to which this Part applies shall be subject to and shall be deemed to have given consent to annual inspections, surveys or evaluations by properly identified personnel of the Department, State Fire Marshal's Office, State or Federal Department of Veterans' Affairs or by such other properly identified persons, including local health department staff, as the Department may designate. An inspection, survey, or evaluation, other than an inspection of financial records, shall be conducted without prior notice to the facility. A visit for the sole purpose of consultation may be announced. (Section 3-212(a) of the Act) The licensee, or person representing the licensee in the facility, shall provide to the representative of the Department access and entry to the premises or facility for obtaining information required to carry out the Act and this Part. In addition, representatives of the Department shall have access to and may reproduce or photocopy at the Department's cost any books, records, and other documents maintained by the facility, the licensee or their representatives to the extent necessary to carry out the Act and this Part. A facility may charge the Department for such photocopying at a rate determined by the facility not to exceed the rate in the Department's Freedom of Information rules (2 Ill. Adm. Code 1126). (Section 3-213 of the Act)
- b) Consultation consists of providing advice or suggestions to the staff of a facility at their request relative to specific matters of the scope of regulation, methods of compliance with the Act or this Part,

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or general matters of patient care.

Section 340.1170 Presentation of Findings by the Department

- a) If it is probable that findings will be presented that could be issued as violations of regulations which represent a direct threat to the health, safety or welfare of residents, surveyors shall notify the administrator or designee during the course of the survey of such possible findings.
- b) The Department shall conduct an exit conference with the administrator or other facility designee at the conclusion of each on-site inspection at the facility, whether or not the investigation has been completed. If the investigation has been completed, findings shall be presented during the exit conference. If the investigation has not been completed at the time of the facility exit, the Department shall inform the facility administrator or designee that the investigation is not complete and that findings may be presented to the facility at a later date. Presentation of any additional findings may be conducted at the facility, at the Department's regional office, or by telephone.
- c) With the assistance of the administrator, surveyors shall schedule a time and place for the exit conference to be held at the conclusion of the survey.
- d) At the exit conference, surveyors shall present their findings and resident identity key and identify regulations related to the findings. The facility administrator or designee shall have an opportunity at the exit conference to discuss and provide additional documentation related to the findings. The Department's surveyors conducting the exit conference may, in their discretion, modify or eliminate any or all preliminary findings in accordance with any facts presented by the facility to the Department during the exit conference.
- e) Additional comments or documentation may be submitted by the facility to the Department during a 10-day comment period as allowed by the Act.
- f) If the Department determines, after review of the comments submitted pursuant to subsection (e) of this Section, that the facility may have committed violations of the Act or this part different than or in addition to those presented at the exit conference and the violations may be cited as either a Type A or repeat Type B violation, the Department shall so inform the facility in writing. The facility shall then have an opportunity to submit additional comments addressing the different or additional sections of the Act or this Part. The surveyor will be advised of any code changes made after their recommendations are submitted.
- g) The facility shall have 5 working days from receipt of the notice required by subsection (f) of this Section to submit its additional comments to the Department. The Department shall consider such

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additional comments in determining the existence and level of violation of the Act and/or this part in the same manner as the Department considers the facility's original comments.

- h) If desired by the facility, an audio-taped recording may be made of the exit conference provided that a copy of such recording be provided, at facility expense, to the surveyors at the conclusion of the exit conference. No video-taped recording shall be allowed.

- i) Surveyors shall not conduct an exit conference for the following reasons:

- 1) The facility administrator or designee requests that an exit conference not be held;
- 2) During the scheduled exit conference, facility staff and/or their guests create an environment that is not conducive to a meaningful exchange of information.

Section 340.1190 Ownership Disclosure

As a condition of the issuance or renewal of the license of any facility, the applicant shall file a statement of ownership, as follows (Section 3-207(a) of the Act):

- a) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number, and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five percent or more in the legal entity designated as the operator/licensee of the facility which is the subject of the application or license;
- b) The name, address, Social Security Number, telephone number, occupation or business activity, business address, business telephone number, and the percent of direct or indirect financial interest of those persons who have a direct or indirect financial interest of five percent or more in the legal entity that owns the building in which the operator/licensee is operating the facility which is the subject of the application or license; and
- c) The name and address of any facility, wherever located, any financial interest in which is owned by the applicant, if the facility were required to be licensed if it were located in this State. (Section 3-207(b) of the Act)

Section 340.1200 Monitor and Receivership

- a) The Department may place an employee or agent to serve as a monitor in accordance with Section 3-501 of the Act. (Section 3-501 of the Act) The monitor shall meet the following minimum requirements:

- 1) have an understanding of the needs of long-term care facility residents as evidenced by one year of experience, as appropriate, in working with the elderly in programs such as patient care, social work, advocacy, or facility inspection;

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- 2) have an understanding of the Act and this Part which are the subject of the monitors' duties as evidenced in a personal interview of the candidate;
 - 3) be unrelated to the owners or licensee of the involved facility either through blood, marriage or common ownership of real or personal property except ownership of stock that is traded on a stock exchange;
 - 4) have successfully completed a baccalaureate degree, or possess a nursing license or a nursing home administrator's license; and
 - 5) have two years full-time work experience in the long-term care industry of the State of Illinois.
- b) The monitor shall be under the supervision of the Department and shall perform the duties of a monitor delineated in Section 3-502 of the Act in accordance with the Department's instructions.
- c) All communications, including but not limited to data, memoranda, correspondence, records and reports shall be transmitted to and become the property of the Department, plus, findings and results of the monitor's work done under this Part shall be strictly confidential and not subject to disclosure without written authorization from the Department or by court order subject to disclosure only in accordance with the provisions of the Freedom of Information Act, subject to the confidentiality requirements of the Act.
- d) The assignment as monitor may be terminated at any time by the Department.
- e) Through consultation with the long-term care industry associations, professional organizations, consumer groups and health care management corporations, the Department shall maintain a list of receivers. Preference on the list shall be given to individuals possessing a valid Illinois Nursing Home Administrator's License, experience in financial and operations management of a long-term care facility and individuals with access to consultative experts with the aforementioned experience. To be placed on the list, individuals must meet the following minimum requirements:
- 1) have an understanding of the needs of long-term care facility residents and the delivery of the highest possible quality of care as evidenced by one year of experience in working with the elderly in programs such as patient care, social work, advocacy, or facility inspection.
 - 2) have an understanding and working knowledge of the Act and this Part as evidenced in a personal interview of the candidate.
- f) Upon appointment of a receiver for a facility by a court, the Department shall inform the individual of all legal proceedings to date that concern the facility.
- g) The receiver may request that the Director of the Department authorize expenditures from monies appropriated, pursuant to Section 3-511 of the Act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.

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Section 340.1210 Determination of a Violation

- a) Upon receipt of a report of an inspection, survey or evaluation of a facility, the Director shall review the findings contained in the report to determine whether the report's findings constitute a violation or violations of which the facility must be given notice. All information, evidence, and observations made during an inspection, survey or evaluation shall be considered in determining findings or deficiencies. (Section 3-212(c) of the Act)
- b) In making this determination, the Director shall consider any comments and documentation provided by the facility within ten days of the facility's receipt of the report.
- c) In determining whether the findings warrant the issuance of a notice of violation, the Director shall base his determination on the following factors:
 - 1) *The severity of the finding.* The Director or his designee will consider whether the finding constitutes merely a technical, non-substantial error or whether the finding is serious enough to constitute an actual violation of the intent and purpose of the standard. (Section 3-212 (c) of the Act)
 - 2) *The danger posed to resident health and safety.* The Director or his designee will consider whether the finding could pose any direct harm to the residents. (Section 3-212(c) of the Act)
 - 3) *The diligence and efforts to correct deficiencies and correction of reported deficiencies by the facility.* Consideration will be given to any evidence provided by the facility in its comments and documentation that steps have been taken to reduce noted findings and to ensure a reduction of deficiencies. (Section 3-212(c) of the Act)
 - 4) *The frequency and duration of similar findings in previous reports and the facility's general inspection history.* The Director or his designee will consider whether the same finding or similar finding relating to the same condition or occurrence has been included in previous reports and the facility has allowed the condition or occurrence to continue or to recur. (Section 3-212(c) of the Act)

Section 340.1220 Determination of the Level of a Violation

- a) After determining that issuance of a notice of violation is warranted and prior to issuance of the notice, the Director will review the findings that are the basis of the violation and any comments and documentation provided by the facility. The level of violation shall be determined based on the definition of level of violation contained in the Act, Section 340.1000 of this Part and on the criteria outlined in this Section.
- b) In determining the level of a violation, the Director shall consider the following criteria:

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- 1) The degree of danger to the resident or residents which is posed by the condition or occurrence in the facility. The following factors will be considered in assessing the degree of danger:
 - A) Whether the resident or residents of the facility are able to recognize conditions or occurrences that may be harmful and are able to take measures for self-preservation and self-protection. The extent of nursing care required by the residents as indicated by review of patient needs will be considered in relation to this determination.
 - B) Whether the resident or residents have access to the area of the facility in which the condition or occurrence exists and the extent of such access. A facility's use of barriers, warning notices, instructions to staff and other means of restricting resident access to hazardous areas will be considered.
 - C) Whether the condition or occurrence was the result of inherently hazardous activities or negligence by the facility.
 - D) Whether the resident or residents of the facility were notified of the condition or occurrence and the promptness of such notice. Failure of the facility to notify residents of potentially harmful conditions or occurrences will be considered. The adequacy of the method of such notification and the extent to which such notification reduced the potential danger to the residents will also be considered.
- 2) The directness and imminence of the danger to the resident or residents by the condition or occurrence in the facility. In assessing the directness and imminence of the danger, the following factors will be considered:
 - A) Whether actual harm, including death, physical injury or illness, mental injury or illness, distress, or pain, to a resident or residents resulted from the condition or occurrence and the extent of such harm.
 - B) Whether available statistics and records from similar facilities indicate that direct and imminent danger to the resident or residents has resulted from similar conditions or occurrences and the frequency of such danger.
 - C) Whether professional opinions and findings indicate that direct and imminent danger to the resident or residents will result from the condition or occurrence.
 - D) Whether the condition or occurrence was limited to a specific area of the facility or was widespread throughout the facility. Efforts taken by the facility to limit or reduce the scope of the area affected by the condition or occurrence will be considered.
 - E) Whether the physical, mental, or emotional state of the resident or residents, who are subject to the danger, would facilitate or hinder harm actually resulting from the

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- condition or occurrence.
 - c) If the Director determines that the report's findings constitute a violation which does not directly threaten the health, safety, or welfare of a resident, the Department shall issue an administrative warning. (Section 3-303.2(a) of the Act)

Section 340.1230 Plans of Correction and Reports of Correction

- a) A facility shall have ten days after receipt of notice of violation for a Type B violation, or after receipt of a notice of failure to correct a situation, condition, or practice that resulted in the issuance of an administrative warning, to prepare and submit a plan of correction to the Department. (Section 3-303(b) of the Act)
- b) Within the ten-day period, a facility may request additional time for submission of the plan of correction. The Department may extend the period for submission of the plan of correction for an additional 30 days, when it finds that corrective action by a facility to abate or eliminate the violation will require substantial capital improvement. The Department will consider the extent and complexity of necessary physical plant repairs and improvements and any impact on the health, safety, or welfare of the residents of the facility in determining whether to grant a requested extension. (Section 3-303(b) of the Act)
- c) In lieu of submission of a plan of correction, a facility may submit a report of correction if corrective action has been completed. The report of correction must be submitted within the time period required in subsection (a) of this Section.
- d) Each plan of correction or report of correction shall be based on an assessment by the facility of the conditions or occurrences that are the basis of the violation and an evaluation of the practices, policies, and procedures that have caused or contributed to the conditions or occurrences. Evidence of such assessment and evaluation shall be maintained by the facility. Each plan of correction or report of correction shall include:
 - 1) A description of the specific corrective action the facility is taking, or plans to take, or has taken to abate, eliminate, or correct the violation cited in the notice.
 - 2) A description of the steps that will be or have been taken to avoid future occurrences of the same and similar violations.
 - 3) A specific date by which the corrective action will be or was completed.
- e) Submission of a plan of correction or report of correction shall not be considered an admission by the facility that the violation has occurred.
- f) The Department shall review each plan of correction or report of correction to ensure that it provides for the abatement, elimination, or correction of the violation. The Department shall reject a submitted plan or report only if it finds any of the following deficiencies:

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- 1) The plan or report does not address the conditions or occurrences that are the basis of the violation and an evaluation of the practices, policies, and procedures that have caused or contributed to the conditions or occurrences.
- 2) The plan or report is not specific enough to indicate the actual actions the facility will be taking to abate, eliminate, or correct the violation.
- 3) The plan or report does not provide for measures that will abate or eliminate, or correct the violation.
- 4) The plan or report does not provide steps that will avoid future occurrences of the same or similar violations.
- 5) The plan or report does not provide for timely completion of the corrective action, considering the seriousness of the violation, any possible harm to the residents, and the extent and complexity of the corrective action.
- g) When the Department rejects a submitted plan of correction or report of correction, it shall notify the facility. The notice of rejection shall be in writing and shall specify the reason for the rejection. *The facility shall have ten days after receipt of the notice of rejection to submit a modified plan.* (Section 3-303(b) of the Act)
- h) If a facility fails to submit a plan or report of correction or modified plan meeting the criteria in subsection (d) of this Section within the prescribed time periods in subsection (a) or subsection (g) of this Section, or anytime the Department issues a Type A or Repeat B violation, *an approved plan of correction will be imposed by the Department.* (Section 3-303(b) of the Act)

Section 340.1240 Calculation of Penalties

- a) For the purpose of calculating penalties, *each day the violation exists after the date upon which a notice of the violation is received by the facility shall constitute a separate violation.* The Department shall not be required to send additional notices of violation to the facility for such continuing violations. (Section 3-302 of the Act)
- b) For purposes of calculating penalties, *the number of residents per day shall be based on the average number of residents in the facility during the 30 days preceding the discovery of the violation.* (Section 3-305(5) of the Act)

Section 340.1245 Conditions for Assessment of Penalties

The Department shall consider the assessment of a monetary penalty against a facility under the following conditions:

- a) When a notice of violation for a level A violation is issued.
 - 1) The penalty to be assessed for this violation shall be the greater of the following:
 - A) An amount not less than \$5000 as determined by the Director

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- or his designee considering the factors outlined in Section 3-306 of the Act.
- B) The total of the following:
 - i) *\$5 per resident in the facility, plus*
 - ii) *\$.20 per resident for each day of the violation, commencing on the day on which the notice of violation is received by the facility and ending on the day the violation is corrected.* (Section 3-305(1) of the Act)
- 2) The facility shall also be issued a conditional license for a period of six months.
- b) When a facility fails to abate or eliminate a level A violation immediately or within the period set by the Department in the notice of violation:
 - 1) The facility shall be cited for a repeat violation;
 - 2) The penalty to be assessed shall be three times the penalty computed under subsection (a)(1) of this Section; and
 - 3) The license of the facility shall be revoked as provided in Section 340.1150.
- c) When a notice of violation for a level B violation is issued.
 - 1) The penalty to be assessed for this violation shall be the greater of the following:
 - A) An amount not less than \$500 as determined by the Director or his designee considering the factors outlined in Section 3-306 of the Act.
 - B) The total of the following:
 - i) *\$3 per resident in the facility, plus*
 - ii) *\$.15 per resident for each day of the violation, commencing on the day on which the notice of violation is received by the facility and ending on the day the violation is corrected.* (Section 3-305(2) of the Act)
- 2) Upon acceptance of a plan of correction by the Department, assessment of the penalty shall be suspended by the Department. No additional penalty shall be imposed for days during which the plan of correction is in effect.
- d) When a facility fails to correct a level B violation within the time period specified in the plan of correction approved by the Department.
 - 1) The facility shall be cited for a repeat violation.
 - 2) The penalty to be assessed shall be computed in accordance with subsection (c)(1) of this Section. Days during which the plan of correction was in effect shall be included in the calculation of the penalty.
- 3) The facility shall also be issued a conditional license for a period of at least six months as provided in Section 340.1150.
- e) When a Notice of Violation is issued for a provision of Article II which has been violated with regard to a particular resident, the Department shall issue an order requiring the facility to reimburse the resident for injuries incurred, or \$100, whichever is greater. In the case of a violation involving any action other than theft of money

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belonging to a resident, reimbursement shall be ordered only if a provision of Article II has been violated with regard to that or any other resident of the facility within the 2 years immediately preceding the violation in question. (Section 3-305(6) of the Act)

Section 340.1250 Reduction or Waiver of Penalties

- a) When the Director finds that correction of a violation required capital improvements or repairs in the physical plant of the facility and the facility has a history of compliance with physical plant requirements, the penalty will be reduced by the amount of the cost of the improvements or repairs. This reduction, however, shall not reduce the penalty for a Type A violation to an amount less than \$1000.
- b) Penalties resulting from Type B violations may be reduced or waived only under one of the following conditions:
 - 1) The facility submits a true report of correction within ten days after the notice of violation is received, and the report is subsequently verified by the Department. (Section 3-308(a) of the Act)
 - 2) The facility submits a plan of correction within ten days after the notice of violation is received; the plan is approved by the Department; the facility submits a report of correction within 15 days after submission of the plan of correction; and the report is subsequently verified by the Department. (Section 3-308(b) of the Act)
 - 3) The facility submits a plan of correction within ten days after the notice of a violation is received; the plan provides for correction time that is less than or equal to 30 days after submission of the plan of correction; and the Department approves such plan. (Section 3-308(c) of the Act)
 - 4) Correction of the violation requires substantial capital improvements or repairs in the physical plant of the facility; the facility submits a plan of correction for violations involving substantial capital improvements which provides for correction within 90 days after submission of the plan, and the plan is approved by the Department. (Section 3-308(d) of the Act)

Section 340.1260 Waivers

- a) Upon application by a facility, the Director may grant or renew the waiver of the facility's compliance with this Part for a period not to exceed the duration of the current license or, in the case of an application for license renewal, the duration of the renewal period. (Section 3-303.1 of the Act)
- b) The waiver may be conditioned upon the facility taking action prescribed by the Director as a measure equivalent to compliance.

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(Section 3-303.1 of the Act)

- c) In determining whether to grant or renew a waiver, the Director shall consider:
 - 1) the duration and basis for any current waiver with respect to the same rule or standard;
 - 2) the continued validity of extending the waiver on the same basis;
 - 3) the effect upon the health and safety of residents;
 - 4) the quality of resident care (whether the waiver would reduce the overall quality of the resident care below that required by the Act or this Part);
 - 5) the facility's history of compliance with the Act and this Part (the existence of a consistent pattern of violation of the Act or this Part); and
 - 6) the facility's attempts to comply with the particular rule or standard in question. (Section 3-303.1 of the Act)
- d) The Department shall renew waivers relating to physical plant standards issued pursuant to this Section at the time of the indicated reviews, unless it can show why such waivers should not be extended for the following reasons:
 - 1) the condition of the physical plant has deteriorated or its use substantially changed so that the basis upon which the waiver was issued is materially different; or
 - 2) the facility is renovated or substantially remodeled in such a way as to permit compliance with the applicable rules and standards without substantial increase in cost. (Section 3-303.1 of the Act)

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1300 Facility Policies

- a) The facility shall have written policies and procedures governing all services provided by the facility, which shall be formulated with the involvement of the administrator. These policies shall be in compliance with the Act and this Part. These written policies shall be followed in operating the facility and shall be reviewed at least annually, as evidenced by a dated signature.
- b) There shall be an advisory physician, or a medical advisory committee composed of physicians, who shall be responsible for advising the administrator on the overall medical management of the residents and the staff of the facility. If the facility employs a house physician, the house physician may be the advisory physician.
- c) All the information contained in the policies shall be available to the public, staff, residents, and for review by Department personnel.
- d) These written policies shall include, at a minimum, the following provisions:
 - 1) Admission, transfer, and discharge of residents including the types of services offered by the facility that would cause

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residents to be admitted, transferred or discharged, and transfers within the facility from one room to another.

- 2) Resident care services including physician services, emergency services, personal care and nursing services, restorative services, activity services, pharmaceutical services, dietary services, social services, clinical records, dental services, and diagnostic service (including laboratory and x-ray).

- 3) Prohibition against blood transfusions, unless the facility is hospital based and appropriate services are available in case of an adverse reaction to the transfusions.

- e) The facility shall have a written agreement with one or more hospitals, which indicates the hospital or hospitals will provide diagnostic, emergency and routine acute care hospital services. (This requirement may be waived when the facility can document to the satisfaction of the Department that by reason of remote location or refusal of local hospitals to enter an agreement, it is unable to effect such an agreement.)

- f) The advisory physician or medical advisory committee shall develop policies and procedures to be followed during the various medical emergencies that may occur from time to time in a facility. These medical emergencies include, but are not limited to, such things as:

- 1) Pulmonary emergencies (for example, airway obstruction, foreign body aspiration, and acute respiratory distress, failure, or arrest).
- 2) Cardiac emergencies (for example, ischemic pain, cardiac failure, or cardiac arrest).
- 3) Traumatic injuries (for example, fractures, burns, or lacerations).
- 4) Toxicologic emergencies (for example, untoward drug reactions or overdoses).
- 5) Other medical emergencies (for example, convulsions or shock).
- g) The facility shall maintain in a suitable location the equipment to be used during the emergencies detailed in subsection (f) of this Section. This equipment shall include, at a minimum, a portable oxygen kit, including a face mask or cannula, an airway, and a bag valve mask manual ventilating device.

Section 340.1310 Admission and Discharge Policies

- a) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or distinct part of a facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.
- b) Each facility shall have a policy concerning the admission of persons

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needing prenatal or maternity care, and a policy concerning keeping of persons who become pregnant while they are residents of the facility. If these policies permit these persons to be admitted to, or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to these persons from in-house or outside resources. (See Section 340.1550)

- c) Residents with a history of aggressive or self-abusive behavior may be admitted only if the facility has in place appropriate, effective and individualized programs to manage the resident's behaviors and adequate, properly trained and supervised staff to administer the programs.

- d) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.

- e) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.

- f) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

- g) A facility shall document all leaves and temporary transfers. Such documentation shall include date, time, condition of resident, person to whom the resident was released, planned destination, anticipated date of return, and any special instructions on medication dispensed.

Section 340.1320 Disaster Preparedness

- a) Each facility shall have policies covering disaster preparedness, including a written plan for staff and residents to follow in case of fire, explosion, severe weather or other hazardous circumstances or emergencies. The plan shall be rehearsed at least twice a year for each shift. The plan shall include, but is not limited to, the following:

- 1) All personnel employed on the premises shall be properly instructed in the use of fire extinguishers.
- 2) A written plan of evacuation posted, and made familiar to all personnel employed on the premises.
- b) Fire and disaster drills shall be held at least quarterly, for each shift of facility personnel and under varied conditions, in order to:

 - 1) Ensure that all personnel on all shifts are trained to perform assigned tasks;
 - 2) Ensure that all personnel on all shifts are familiar with the use of the fire fighting equipment in the facility; and
 - 3) Evaluate the effectiveness of disaster plans and procedures.

- c) Fire and disaster drills shall include simulation of evacuation of residents to safe areas during at least one drill each year on each shift.
- d) There shall be special provisions for the evacuation of physically

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handicapped individuals, including those who are hearing or sight impaired.

e) Where the welfare of the residents precludes an actual evacuation of an entire building, there must be drills involving the evacuation of successive portions of the building under such conditions as to assure the capability of evacuating the entire building with the personnel usually available, should the need arise.

f) There shall be a written evaluation of each drill submitted to the facility administrator, which shall be maintained for a year.

g) A written plan shall be developed for temporarily relocating the residents for any emergency requiring relocation and any time the temperature in residents' bedrooms falls below 55 degrees Fahrenheit for 12 hours or more.

h) Reporting of Emergencies

1) Upon the occurrence of any emergency or disaster requiring hospital service, police, fire department or coroner, the facility administrator or their designee must provide a preliminary report to the Department by either utilizing the nursing home hotline or by contacting directly the appropriate Department Regional Office during business hours. This preliminary report shall include, at a minimum:

- A) Name and location of facility;
- B) type of emergency;
- C) number of injuries or deaths to residents;
- D) number of beds not usable due to the event;
- E) estimate of the extent of damages to the facility;
- F) type of assistance needed, if any; and
- G) other state or local agencies notified about the problem.

2) If the emergency will not require direct Departmental assistance, the facility shall provide the preliminary report within 24 hours of the incident. Additionally, the facility shall submit to the Department a full written account of the emergency within seven days of the incident, which includes the information specified in subsections (h)(1)(A) through (h)(1)(G) of this Section and a statement of actions taken by the facility after the preliminary report.

i) Each facility shall establish and implement policies and procedures in a written plan to provide for the health, safety, welfare and comfort of all residents whenever the temperature and relative humidity inside the residents' living, dining, activities or sleeping areas of the facility are equal to or exceed the upper or lower limit lines (the solid lines) of the chart, "Zones of Physiological Perception," displayed in Section 340.1330, Table A: "Disaster Preparedness Parameters -- Relative Humidity and Temperature."

Section 340.1330 Serious Incidents and Accidents

a) The facility shall notify the Department of any incident or accident

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that has, or is likely to have, a significant effect on the health, safety, or welfare of a resident or residents. Incidents and accidents requiring the services of a physician, hospital, police or fire department, coroner, or other service provider on an emergency basis shall be reported to the Department.

1) Notification shall be made by a phone call to the Regional Office within 24 hours of each serious incident or accident. If the facility is unable to contact the Regional Office, notification shall be made by a phone call to the Department's toll-free complaint registry number.

2) A narrative summary of each serious accident or incident occurrence shall be sent to the Department within seven days of the occurrence.

b) A descriptive summary of each incident or accident shall be recorded in the progress notes or nurse's notes for each resident involved.

c) The facility shall maintain a file of all written reports of serious incidents or accidents involving residents.

Section 340.1335 Infection Control

a) The administrator shall assume the responsibility for the establishment of policies and procedures designed to control the spread of infections in the facility.

b) The administrator shall establish an Infection Control Committee, composed of one or more members of the medical staff, and one or more representatives of each of the services provided by the facility, such as nursing, administration, dietary, pharmacy, housekeeping, maintenance and other services. (This is not intended to limit the facility's organization of responsibilities. Any group which includes at least these members may constitute this committee.)

c) The committee shall establish policies and procedures for investigating, controlling, and preventing infections in the facility. The policies and procedures established by the committee shall be consistent with and include the requirements of the rules of the Department of Public Health entitled "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) and "Control of Sexually Transmissible Diseases Code" (77 Ill. Adm. Code 693). The committee shall monitor staff activities to ensure that these policies and procedures are followed.

d) Each facility shall adhere to the recommendations of the U.S. Public Health Service contained in the publication entitled "Guidelines for the Prevention and Control of Nosocomial Infections." The publication may be obtained from the Center for Infectious Diseases, Centers for Disease Control, U.S. Public Health Service, Department of Health and Human Services, Atlanta, Georgia 30333. This publication includes the following guidelines:

- 1) "Guideline for Prevention of Catheter-Associated Urinary Tract Infections" (October 1981).

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- 2) "Guideline for Handwashing and Hospital Environmental Control" (1985).
- 3) "Guideline for Prevention of Intravascular Infections" (October 1981).
- 4) "Guideline for Prevention of Surgical Wound Infections" (March 1982, Revised 1985).
- 5) "Guideline for Prevention of Nosocomial Pneumonia" (July 1982).
- 6) "Guideline for Isolation Precautions in Hospitals" (July 1983).
- 7) "Guideline for Infection Control in Hospital Personnel" (July 1983).

Section 340.1340 Facility Record Requirements

- a) The facility shall maintain a file of reports of findings and recommendations from consultants. Each report shall be dated and indicate each specific date and time the consultant was in the facility.
- b) The facility shall complete the Illinois Department of Public Health Annual Long Term Care (LTC) Facility Survey.
- c) The facility shall maintain a permanent chronological resident registry showing date of admission, name of resident and date of discharge or death.

Section 340.1350 Personnel Policies

- a) Sufficient staff in numbers and qualifications shall be on duty all hours of each day to provide services that meet the total needs of the residents. As a minimum, there shall be at least one staff member awake, dressed, and on duty at all times.
- b) The facility shall document all arrangements for each consultant's services in a written agreement setting forth services to be provided. These agreements shall be updated annually.
- c) Each facility shall develop and maintain written personnel policies that are followed in the operation of the facility.
- d) Employment application forms shall be completed on each employee and kept on file in the facility. They shall contain, at a minimum, home address, social security number, educational background, past employment history including dates, positions held, reasons for leaving. The date of employment and position held shall be documented in each file.
- e) Employees shall only be assigned duties that are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies.
- f) All personnel shall have either training or experience, or both, in the job assigned them.
- g) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing

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allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basic resident safety; and understanding and communicating with the type of residents being cared for in the facility. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedure for resident care services before being assigned to provide direct care to residents. This orientation program shall include material regarding the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.

- h) All employees, except student interns, shall attend inservice training programs pertaining to their assigned duties at least annually. These inservice training programs shall include material regarding the facility's policies, skill training, and ongoing education carried out to enable all personnel to perform their duties effectively. The inservice training sessions regarding personal care, nursing and restorative services shall include material concerning prevention and treatment of decubitus ulcers. Inservice training concerning dietary services shall include material concerning effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content and personnel attending each session shall be kept.

- i) Every facility shall have a current employee time schedule. This schedule shall contain the employee's name, job title, shift assignment, hours of work, and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.
- j) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent.
- k) Individual employee work performance evaluations shall be completed and maintained in the employee's file.
- l) The date and reason a person discontinues employment at the facility shall be noted in their file.

Section 340.1360 Initial Health Evaluation for Employees

- a) Each employee shall have an initial health evaluation, which shall be used to ensure that employees are not placed in positions that would pose undue risk of infection to themselves, other employees, residents, or visitors.
- b) The initial health evaluation shall include a health inventory. This inventory shall be obtained from the employee and shall include the employee's immunization status and any available history of conditions that would predispose the employee to acquiring or transmitting infectious diseases in the course of performing anticipated job functions. It shall include any history of exposure to, or treatment for, tuberculosis, any history of hepatitis, dermatologic conditions,

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chronic draining infections or open wounds.

- c) The initial health evaluation shall include a physical examination. The examination shall include at a minimum any procedures needed in order to:

- 1) Detect any unusual susceptibility to infection and any conditions that would increase the likelihood of the transmission of disease to residents, other employees, or visitors; and
 - 2) Determine that the employee appears to be physically able to perform the job functions that the facility intends to assign to the employee.
- d) The health inventory and physical examination shall be completed no more than 30 days prior to and no more than 30 days after the date of initial employment in the facility.
- e) The initial health evaluation shall include a tuberculin skin test, which is conducted in accordance with the requirements of Section 340.1520. The test shall be completed no more than 90 days prior to or commenced no more than ten days after the date of initial employment in the facility.

Section 340.1370 Administrator

- a) There shall be a full-time administrator licensed under the Nursing Home Administrators Licensing and Disciplinary Act for each licensed facility. The licensee will report any change of administrator to the Department, within five days.
- b) The administrator shall delegate in writing adequate authority to a person at least 18 years of age who is capable of acting in an emergency during his or her absence. Such administrative assignment shall not interfere with resident care and supervision. The administrator or the person designated by the administrator to be in charge of the facility in the administrator's absence shall be deemed by the Department to be the agent of the licensee for the purpose of Section 3-212 of the Act, which requires Department staff to provide the licensee with a copy of their report before leaving the facility.
- c) If the facility has an assistant administrator, the Department shall be informed of the name and dates of employment and termination of this person. This will provide documentation of service to qualify for a license under the Nursing Home Administrators Licensing and Disciplinary Act.

Section 340.1375 Personnel Requirements

- a) Supervision of Nursing Services
- 1) The facility shall have a director of nursing service (DONS) who shall be a registered nurse.
 - A) This person shall have knowledge and training in nursing service administration and restorative and rehabilitative nursing. This person shall also have some knowledge and

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training in the care of the type of residents for which the facility cares.

- B) This person shall be a full-time employee who is on duty a minimum of 36 hours, four days per week.
 - C) A facility may, with written approval from the Department, have two nurses share the duties of this position if it is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full-time; and information about the numbers and availability of licensed nurses in the area. The Department will approve only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full-time.
 - D) In facilities of less than 50 beds, this person may also provide direct patient care, and this person's time may be included in meeting staff/resident ratio requirements.
- 2) Facilities of 100 or more beds, shall have a licensed nurse designated as the assistant director of nursing service. This person shall perform the duties of the DONS when the DONS is on vacation or extended sick leave. The assistant may provide direct patient care and be included in the staff to resident ratio calculations when not acting as the DONS.
- A) The assistant shall be a full-time employee who is on duty a minimum of 36 hours, four days per week. The assistant may be assigned to work hours any time of the day or night.
 - B) The assistant shall assist the DONS in carrying out the responsibilities of the DONS.
- 3) The DONS shall oversee the nursing services of the facility. This person's duties shall include:
- A) Assigning and directing the activities of nursing service personnel.
 - B) Assuring that resident care plans are developed and maintained.
 - C) Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.
 - D) Participating in planning and budgeting for nursing services

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including purchasing of necessary equipment and supplies.

E) Developing and maintaining nursing service objectives, standards of nursing practice, written policies and procedures, and written job descriptions for each level of nursing personnel.

F) Coordinating health services and nursing services with other resident care services such as medical, pharmaceutical, dietary activities, and any other restorative/rehabilitative services offered.

G) Planning of inservice education, embracing orientation, skill training, and ongoing education for all personnel covering all aspects of resident care and programming. The education program shall include training and practice in activities and restorative/rehabilitative nursing techniques through out-of-facility or in-facility training programs. This person may conduct these programs personally or see to it that they are carried out.

H) Participating in the development and implementation of resident care policies and bringing resident care problems, requiring changes in policy, to the attention of the facility's policy development group.

I) Participating in the screening of prospective residents and their placement in terms of services they need and nursing competencies available.

b) Nursing Personnel

1) There shall be a licensed or registered nurse on duty and designated as being in charge of nursing services on all shifts when neither the director of nursing service nor assistant director of nursing service is on duty. If registered nurses and licensed practical nurses are on duty on the same shift, this charge nurse shall be the registered nurse.

2) There shall be at least one registered nurse on duty seven days per week for eight consecutive hours. There shall be at least one registered nurse or licensed practical nurse on duty on each floor housing residents.

3) The need for licensed nurses on each nursing unit in a nursing facility will be determined on an individual case basis, dependent upon the individual situation. The need for an additional registered or licensed practical nurse to serve as a "house supervisor" will be determined on an individual basis. If such additional staffing is required, the Department will inform the facility in writing of the kind and amount of additional staff time required, and the reason why it is needed.

4) Nursing Assistants

A) The facility shall assure that each person employed by the facility as a nursing assistant complies with one of the following conditions no later than 45 days after the date of initial employment.

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i) Provide documentation of registration on the Department's Nurse Aide Registry.

ii) Enroll in a Basic Nursing Assistant Training Program that has been approved by the Department under its rules governing training programs for nursing assistant and aides (77 Ill. Adm. Code 395) and pass the Department approved nursing assistant competency examination. The program coursework shall be successfully completed and the competency examination passed by the nursing assistant no later than 120 days after the date of initial employment, unless that training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.

iii) Provide documentation from another state of certification as a nursing assistant on or after January 1, 1990.

iv) Provide documentation of successful completion of a nursing arts course in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the Department approved nursing assistant competency examination.

B) The facility shall assure that each person employed by the facility as a nursing assistant shall meet each of the following requirements:

i) Be at least 16 years of age, of temperate habits and good moral character, honest, reliable, and trustworthy. (Section 3-206(a)(1) of the Act)

ii) Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents. (Section 3-206(a)(2) of the Act)

iii) Provide evidence of employment or occupation, if any, and residence for two years prior to initial employment as a nursing assistant. (Section 3-206(a)(3) of the Act)

iv) Have completed at least eight years of grade school or provide proof of equivalent knowledge. (Section 3-206(a)(4) of the Act)

C) The facility shall certify to the Department the name and residence address of each nursing assistant employed by the facility, and that the employee subject to this Section meets all requirements of this Section. Such certification shall be retained by the facility as part of the employee's personnel record. (Section 3-206(d) and (e) of the Act)

D) A facility shall not employ an individual as a nurse aide unless the facility has inquired of the Department as to

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information in the registry concerning that individual and findings of resident abuse, resident neglect or misappropriation of resident property. (Section 3-206.01 of the Act)

- E) Nursing assistants must be able to demonstrate competency in the principles, techniques, and procedures covered by the basic nursing assistant training program curriculum described in the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395)
- c) There shall be at least one person on duty at all times who has been properly trained to handle the medical emergencies listed in Section 340.1300(f) of this Part. This person may also be counted in fulfilling the requirements of other subsections of this Section.
- d) When facility has only one employee on duty, that employee shall have been certified within the past 12 months in the provision of basic life support by an American Heart Association or American Red Cross certified training program. When there is more than one person on duty in the facility, at least two of the people on duty shall be so certified. A facility employee who is on duty serving in any capacity in the facility may be utilized to meet this requirement.

e) Direct Care Staffing

- 1) The facility must have adequate staff in numbers, training and supervision to meet all residents nursing, personal care and psychosocial needs at all times.
- 2) Staffing shall apply to hours of actual on duty time, not hours scheduled to be provided. The Director of Nursing Services time shall not be included to fulfill required hours except as allowed in subsection (a)(1)(D) of this Section. Direct care staff includes licensed nurses, certified nurses aides, social service staff, qualified mental retardation professionals, and activity personnel.
- 3) Each resident shall be provided at least 2.0 direct care staff hours each day of which at least 20 percent must be licensed nurse time.
- 4) In a facility whose residents participate in regularly scheduled therapeutic programs outside the facility, such as school or sheltered workshops, the minimum hours per day of direct care may be reduced proportionately as long as the facility meets the needs of the residents.
- f) The facility shall provide a Resident Services Director who is assigned responsibility for the coordination and monitoring of the resident's comprehensive care plan. The director of nursing services or an individual on the professional staff of the facility may fill this assignment to assure that residents' comprehensive care plan is individualized, written in terms of short and long-range goals, understandable and utilized; their needs are met through appropriate staff interventions and community resources; and residents are involved, whenever possible, in the preparation of their plan of care.

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SUBPART C: RESIDENT RIGHTS

Section 340.1400 Implementation of Resident Rights and Facility Responsibilities

- a) The facility shall establish written policies and procedures to implement the responsibilities and rights provided in Article II of the Act, Resident Rights and Facility Responsibilities. The policies shall include the procedure for the investigation and resolution of resident complaints under the Act. The policies shall be clear and unambiguous and shall be available for inspection by any person. A summary of the policies and procedures, printed in not less than 12 point type, shall be distributed to each resident and representative. (Section 2-210 of the Act)
- b) The facility shall provide copies of these policies and procedures upon request to next of kin, sponsoring agencies, representative payees and the public.
- c) Each resident and resident's guardian or other person acting for the resident shall be given a written explanation, prepared by the Office of the State Long Term Care Ombudsman, of all the rights enumerated in Part I of Article II And in Part 4 of Article III of the Act at the time of admission to a facility or as soon thereafter as the condition of the resident permits, but in no event later than 48 hours after admission, and again at least annually thereafter. For residents of facilities participating in Title 18 or 19 of the Social Security Act, the explanation shall include an explanation of residents' rights enumerated in that Act. If a resident is unable to read such written explanation, it shall be read to the resident in a language the resident understands. In the case of a minor or a person having a guardian or other person acting for him, both the resident and the parent, guardian or other person acting for the resident shall be fully informed of these rights and responsibilities. (Section 2-211 of the Act)
- d) The resident, resident's representative, guardian, or parent of a minor resident shall acknowledge in writing the receipt from the facility of a copy of all resident rights set forth in Article II of the Act and a copy of all facility policies implementing such rights.
- e) The facility shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in the Act and this Part. (Section 2-212 of the Act)

Section 340.1410 General

- a) No resident shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of their status as a resident of a facility. (Section 2-101 of the Act)

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- b) A resident shall be permitted the free exercise of religion. Upon a resident's request, and if necessary at his expense, the facility administrator shall make arrangements for a resident's attendance at religious services of the resident's choice. However, no religious beliefs or practices, or attendance at religious services, may be imposed upon any resident. (Section 2-109 of the Act)
- c) All facilities shall comply with the Election Code as it pertains to absentee voting for residents of licensed long-term care facilities.
- d) The facility shall immediately notify the resident's next of kin, representative and physician of the resident's death or when the resident's death appears to be imminent. (Section 2-208 of the Act)
- e) The facility shall also immediately notify the resident's family, guardian, representative, conservator and any private or public agency financially responsible for the resident's care whenever unusual circumstances such as accidents, sudden illness, disease, unexplained absences, extraordinary resident charges, billings, or related administrative matters arise.
- f) Where a resident, a resident's representative or a resident's next of kin believes that an emergency exists each or them, collectively or separately, may file a verified petition to the circuit court for the county in which the facility is located for an order placing the facility under the control of a receiver. (Section 3-503 of the Act)
- As used in Section 3-503 of the Act, "emergency" means a threat to the health, safety or welfare of a resident that the facility is unwilling or unable to correct. (Section 3-501 of the Act)
- g) The facility shall make reasonable efforts to prevent loss and theft of residents' property. Those efforts shall be appropriate to the particular facility and may, for example, include, but are not limited to, staff training and monitoring, labeling property, and frequent property inventories. (Section 2-103 of the Act)

Section 340.1420 Contract Between Resident and Facility

a) Contract Execution

- 1) Before a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, a written contract shall be executed between a licensee and the following in order of priority:
 - A) the person, or if the person is a minor, his parent or guardian; or
 - B) the person's guardian, if any, or agent, if any, as defined in Section 2-3 of the Illinois Power of Attorney Act; or
 - C) a member of the person's immediate family. (Section 2-202(a) of the Act)
- 2) An adult person shall be presumed to have the capacity to contract for admission to a long-term care facility unless he has

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- been adjudicated a "disabled person" within the meaning of Section 11A-2 of the "Probate Act of 1975", or unless a petition for such an adjudication is pending in a circuit court of Illinois. (Section 2-202(a) of the Act)
- 3) If there is no guardian, agent or member of the person's immediate family available, able or willing to execute the contract required by Section 2-202 of the Act and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has already been found to be a "disabled person", but no order has been entered allowing residential placement of the person, that person may be admitted to a facility before the execution of a contract required by Section 2-202 of the Act; provided that a petition for guardianship or for modification of guardianship is filed within 15 days of the person's admission to a facility and provided further that such a contract is executed within ten days of the disposition of the petition. (Section 2-202(a) of the Act)
- 4) No adult shall be admitted to a facility if he objects, orally or in writing, to such admission, except as otherwise provided in Chapters III and IV of the Mental Health and Developmental Disabilities Code, or Section 11A-14.1 of the "Probate Act of 1975". (Section 2-202(a) of the Act)
- b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)."
- c) Before a licensee enters a contract under Section 2-202 of the Act, it shall provide the prospective resident and his guardian, if any, with written notice of the licensee's policy regarding discharge of a resident whose private funds for payment of care are exhausted. (Section 2-202(a) of the Act)
- d) A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 3-401 through 3-423 of the Act. (Section 2-202(b) of the Act)
- e) At the time of the resident's admission to the facility, a copy of the contract shall be given to the resident, his guardian, if any, and any other person who executed the contract. (Section 2-202(c) of the Act)
- f) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee.
- g) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section. If any person other than the principal signatory is to be held individually responsible for payments due under the contract that person shall also sign the contract on a separate signature line labelled "signature of responsible party" or "signature of guarantor."
- h) The contract shall include a definition of "responsible party" or "guarantor" which describes in full the liability incurred by any such person.

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- i) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support. (Section 2-202(d) of the Act)
- j) The original or a copy of the contract shall be maintained in the facility and be made available upon request to representatives of the Department and the Department of Public Aid. (Section 2-202(e) of the Act)
- k) The contract shall be written in clear and unambiguous language and shall be printed in not less than 12 point type. (Section 2-202(f) of the Act)
- l) The contract shall specify the term of the contract. (Section 2-202(g)(1) of the Act) The term can be until a certain date or event. If a certain date is specified in the contract, an addendum can extend the term of the contract to another date certain or on a month-to-month basis.
- m) The contract shall specify the services to be provided under the contract and the charges for the services. A paragraph shall itemize the services and products to be provided by the facility and express the cost of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee. (Section 2-202(g)(2) of the Act)
- n) The contract shall specify the services that may be provided to supplement the contract and the charges for the services. (Section 2-202(g)(3) of the Act)
- 1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established in subsection (m) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed then such additional cost shall be specified in the contract.
- 2) If the cost of any itemized service or product to be provided by the facility or related institutions to the resident cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract.
- o) The contract may provide that charges for services or products may be changed with 30 days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or any person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days of the receipt of the written notice of the

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- change. The written notice shall become an addendum to the contract.
- p) The contract shall specify the sources liable for payment due under the contract. (Section 2-202(g)(4) of the Act)
- q) The contract shall specify the amount of deposit paid. Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions the deposit shall be returned to the resident. If the deposit is nonrefundable the contract shall provide express notice of such nonrefundability. (Section 2-202(g)(5) of the Act)
- r) The contract shall specify the rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 2-211 of the Act. (Section 2-202(g)(6) of the Act)
- s) The contract shall designate the name of the resident's representative, if any. The resident shall provide the facility with a copy of the written agreement between the resident and the resident's representative which authorizes the resident's representative to inspect and copy the resident's records and authorizes the resident's representative to execute the contract on behalf of the resident required by Section 2-202 of the Act. (Section 2-202(h) of the Act)
- t) The contract shall provide that if the resident is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate on seven days notice. No prior notice of termination of the contract shall be required, however, in the case of a resident's death. The contract shall also provide that in all other situations, a resident may terminate the contract and all obligations under it with 30 days notice. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life nor to continuing-care contracts through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of the resident's life. (Section 2-202(i) of the Act)
- u) All facilities which offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved, for a term in excess of one year or for life pursuant to a

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life care contract, shall meet all of the provisions of the Life Care Facilities Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 4161-1 et seq.) [210 ILCS 40], including the obtaining of a permit from the Department, before they may enter into such contracts. (Section 2(c) of the Life Care Facilities Act)

v) In addition to all other contract specifications contained in this Section, admission contracts shall also specify:

- 1) whether the facility accepts Medicaid clients;
 - 2) whether the facility requires a deposit of the resident or his family prior to the establishment of Medicaid eligibility;
 - 3) in the event that a deposit is required, a clear and concise statement of the procedure to be followed for the return of such deposit to the resident or the appropriate family member or guardian of the person;
 - 4) that all deposits made to a facility by a resident, or on behalf of a resident, shall be returned by the facility within 30 days of the establishment of Medicaid eligibility, unless such deposits must be drawn upon or encumbered in accordance with Medicaid eligibility requirements established by the Illinois Department of Public Aid. (Section 2-202(j) of the Act)
- w) It shall be a business offense for a facility to knowingly and intentionally both retain a resident's deposit and accept Medicaid payments on behalf of the resident. (Section 2-202(k) of the Act)

Section 340.1430 Residents' Advisory Council

- a) Each facility shall establish a residents' advisory council consisting of at least five resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. The administrator shall designate a member of the facility staff to coordinate the establishment of, and render assistance to, the council. (Section 2-203 of the Act)
- b) The resident members shall be elected to the council by vote of their fellow residents, and the nonresident members shall be elected to the council by vote of the resident members of the council.
- c) All residents' advisory council meetings shall be open to participation by all residents and by their representatives.
- d) No employee or affiliate of a facility shall be a member of any council. Such persons may attend to discuss interests or functions of the non-members when invited by members of the residents' advisory council. (Section 2-203(a) of the Act)
- e) The council shall meet at least once each month with the staff coordinator who shall provide assistance to the council in preparing and disseminating a report of each meeting to all residents, the administrator, and the staff. (Section 2-203(b) of the Act)
- f) Records of the council meetings shall be maintained in the office of

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- g) the administrator. (Section 2-203(c) of the Act)
- h) The residents' advisory council may communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing resident rights and facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they affect residents' rights and facility responsibilities. (Section 2-203(d) of the Act)
- i) The council shall be a forum for:
 - 1) Obtaining and disseminating information;
 - 2) Soliciting and adopting recommendations for facility programming and improvements;
 - 3) Early identification of problems;
 - 4) Recommending orderly resolution of problems. (Section 2-203(e) of the Act)
- j) The council may present complaints on behalf of a resident to the Department, the Long-Term Care Facility Advisory Board created by Section 2-204 of the Act, or to any other person it considers appropriate. (Section 2-203(f) of the Act)
- k) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:
 - 1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives, etc. on the resident advisory council;
 - 2) the establishment of a separate community advisory group with persons of the residents' choosing;
 - 3) finding a church or civic group to "adopt" the facility; or,
 - 4) the establishment of a family council made up of families and friends of residents who live in the community.

Section 340.1440 Abuse and Neglect

- a) An owner, licensee, administrator, employee or agent of a facility shall not abuse or neglect a resident. (Section 2-107 of the Act)
- b) A facility employee or agent who becomes aware of abuse or neglect of a resident shall immediately report the matter to the facility administrator. (Section 3-610 of the Act)
- c) A facility administrator who becomes aware of abuse or neglect of a resident shall immediately report the matter by telephone and in writing to the resident's representative. (Section 3-610 of the Act)
- d) A facility administrator, employee, or agent who becomes aware of abuse or neglect of a resident shall also report the matter to the Department. (Section 3-610 of the Act)
- e) Employee as perpetrator of abuse. When an investigation of a report of suspected abuse of a resident indicates, based upon credible evidence, that an employee of a long-term care facility is the

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perpetrator of the abuse, that employee shall immediately be barred from any further contact with residents of the facility, pending the outcome of any further investigation, prosecution or disciplinary action against the employee. (Section 3-611 of the Act)

f) Resident as perpetrator of abuse. When an investigation of a report of suspected abuse of a resident indicates, based upon credible evidence, that another resident of the long-term care facility is the perpetrator of the abuse, that resident's condition shall be immediately evaluated to determine the most suitable therapy and placement for the resident, considering the safety of that resident as well as the safety of other residents and employees of the facility. (Section 3-612 of the Act)

Section 340.1450 Communication and Visitation

- a) Every resident shall be permitted unimpeded, private and uncensored communication of his choice by mail, public telephone or visitation. (Section 2-108 of the Act)
- b) The facility administrator shall ensure that correspondence is conveniently received and mailed, and that telephones are reasonably accessible. (Section 2-108(a) of the Act)
- c) The facility administrator shall ensure that residents may have private visits at any reasonable hour unless such visits are not medically advisable for the resident as documented in the resident's clinical record by the resident's physician. (Section 2-108(b) of the Act)
- d) The facility shall allow daily visiting at least between 10 A.M. and 8 P.M. Visiting hours shall be posted in plain view of visitors.
- e) The facility administrator shall ensure that space for visits is available and that facility personnel knock, except in an emergency, before entering any resident's room. (Section 2-108(c) of the Act)
- f) Unimpeded, private and uncensored communication by mail, public telephone, and visitation may be reasonably restricted by a physician only in order to protect the resident or others from harm, harassment or intimidation provided that the reason for any such restriction is placed in the resident's clinical record by the physician and that notice of probable causes of such restriction shall be given to all residents upon admission. (Section 2-108(d) of the Act)
- g) Notwithstanding subsection (f) of this Section, all letters addressed by a resident to the Governor, members of the General Assembly, Attorney General, judges, state's attorneys, officers of the Department, or licensed attorneys at law shall be forwarded at once to the persons to whom they are addressed without examination by facility personnel. Letters in reply from the officials and attorneys mentioned above shall be delivered to the resident without examination by facility personnel. (Section 2-108(d) of the Act)
- h) Any employee or agent of a public agency, any representative of a community legal services program or any member of the general public

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shall be permitted access at reasonable hours to any individual resident or any facility, but only if there is neither a commercial purpose nor effect to such access and if the purpose is to do any of the following:

- 1) Visit, talk with and make personal, social, and legal services available to all residents;
- 2) Inform residents of their rights and entitlements and their corresponding obligations, under federal and State laws, by means of educational materials and discussions in groups and with individual residents;
- 3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and Social Security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or
- 4) Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights. (Section 2-110(a) of the Act)
- i) All persons entering a facility under subsection (h) of this Section shall promptly notify appropriate facility personnel of their presence. They shall, upon request, produce identification to establish their identity. No person shall enter the immediate living area of any resident without first identifying himself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. (Section 2-110(b) of the Act)
- j) A resident may terminate at any time a visit by a person having access to the resident's living area. (Section 2-110(b) of the Act)

Section 340.1460 Resident's Funds

- a) A resident shall be permitted to manage his own financial affairs unless he or his guardian or if the resident is a minor, his parent, authorizes the administrator of the facility in writing to manage such resident's financial affairs under subsections (b) through (n) of this Section. (Section 2-102 of the Act)
- b) The facility shall at the time of admission, provide, in order of priority, each resident, or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written statement explaining to the resident and to the resident's spouse their spousal impoverishment rights, as defined at Section 5-4 of the Illinois Public Aid Code, as now and hereafter amended, and at Section 303 of Title II of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360), and the resident's rights regarding personal funds and listing the services for which the resident will be charged, and obtain a signed acknowledgment from each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, that such person has received the statement. (Section 2-201(l) of the Act)

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- of the Act)
- c) The facility may accept funds from a resident for safekeeping and managing, if it receives written authorization from, in order of priority, the resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or its operations, and who is not connected in any way to facility personnel or the administrator in any manner whatsoever. (Section 2-201(2) of the Act)
 - d) The facility shall maintain and allow, in order of priority, each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, access to a written record of all financial arrangements and transactions involving the individual resident's funds. (Section 2-201(3) of the Act)
 - e) The facility shall provide, in order of priority, each resident, or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written itemized statement at least quarterly, of all financial transactions involving the resident's funds. (Section 2-201(4) of the Act)
 - f) The facility shall purchase a surety bond or otherwise provide assurance satisfactory to the Departments of Public Health and Insurance that all residents' personal funds deposited with the facility are secure against loss, theft, and insolvency. (Section 2-201(5) of the Act)
 - 1) If a surety bond is secured, it must be issued by a company licensed to do business in Illinois, the amount of bond must be equal to or greater than all resident funds managed by the facility, and the obligee named in the bond must be the Illinois Department of Public Health or its assignees.
 - 2) If an alternative to a surety bond is secured, the alternative must provide a protection equivalent to that afforded by a surety bond. To be acceptable, the alternative must have a person(s) or entity(ies) designated who can collect in case of loss (e.g., residents, the Department). The alternative must also provide a guarantee that lost funds will be repaid. The guarantee may be made either by an independent entity (e.g., a bank) or the facility. If the facility provides the guarantee, it must be backed by facility money at least equal to resident funds. This money must be reserved solely for the purpose of assuring the security of resident funds. Two examples of acceptable alternatives to surety bonds are letters of credit and self-insurance. Both surety bonds and alternatives must protect the full amount of residents' funds deposited with the facility.
 - 3) Any alternative to a surety bond shall be submitted to the Department for review and approval.
 - g) The facility shall keep any funds received from a resident for safekeeping in an account separate from the facility's funds, and

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- shall at no time withdraw any part or all of such funds for any purpose other than to return the funds to the resident upon the request of the resident or any other person entitled to make such request, to pay the resident his allowance, or to make any other payment authorized by the resident or any other person entitled to make such authorization. (Section 2-201(6) of the Act)
- h) The facility shall deposit any funds received from a resident in excess of \$100 in an interest bearing account insured by agencies of, or corporations chartered by, the State or federal government. The account shall be in a form which clearly indicates that the facility has only a fiduciary interest in the funds and any interest from the account shall accrue to the resident. (Section 2-201(7) of the Act)
 - i) The facility may keep up to \$100 of a resident's money in a non-interest bearing account or petty cash fund, to be readily available for the resident's current expenditures. (Section 2-201(7) of the Act)
 - j) The facility shall return to the resident, or the person who executed the written authorization required in subsection (c) of this Section, upon written request, all or any part of the resident's funds given the facility for safekeeping, including the interest accrued from deposits. (Section 2-201(8) of the Act)
 - k) The facility shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the facility has written authorization from the resident or the resident's guardian, or if the resident is a minor, his parent, to handle it differently. The facility shall take all steps necessary to ensure that a personal needs allowance that is placed in a resident's personal account is used exclusively by the resident or for the benefit of the resident, and where such funds are withdrawn from the resident's personal account by any person other than the resident, require such person to whom funds constituting any part of a resident's personal needs allowance are released, to execute an affidavit that such funds shall be used exclusively for the benefit of the resident. (Section 2-201(9)(a) of the Act) "Personal needs allowance", for the purposes of this subsection, refers to the monthly allowance allotted by the Illinois Department of Public Aid to public aid recipients.
 - l) Unless otherwise provided by State law, the facility shall upon the death of a resident provide the executor or administrator of the resident's estate with a complete accounting of all the resident's personal property, including any funds of the resident being held by the facility. (Section 2-201(10) of the Act)
 - m) If an adult resident is incapable of managing his funds and does not have a resident's representative, guardian, or an immediate family member, the facility shall notify the Office of the State Guardian of the Guardianship and Advocacy Commission. (Section 2-201(11) of the Act)
 - n) If the facility is sold, the seller shall provide the buyer with a

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written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner. (Section 2-201(12) of the Act)

Section 340.1470 Transfer or Discharge

- a) A resident may be voluntarily discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. (Section 2-111 of the Act)
- b) A facility may involuntarily transfer or discharge a resident only for one or more of the following reasons:

- 1) for medical reasons;
- 2) for the resident's physical safety;
- 3) for the physical safety of other residents, the facility staff or facility visitors; or
- 4) for either late payment or nonpayment for the resident's stay, except as prohibited by Titles XVIII and XIX of the federal Social Security Act. For purposes of this Section, "Late Payment" means non-receipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, the facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail. The notice shall state, in addition to the requirements of Section 3-403 of the Act and subsection (e) of this Section, that the responsible party has the right to pay the amount of the bill in full up to the date the transfer or discharge is to be made and then the resident shall have the right to remain in the facility. Such payment shall terminate the transfer or discharge proceedings. This subsection does not apply to those residents whose care is provided under the Illinois Public Aid Code. (Section 3-401 of the Act)

- c) A facility participating in the Medical Assistance Program is prohibited from failing or refusing to retain as a resident any person because the resident is a recipient of, or an applicant for, the Medical Assistance Program. For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility during any hospital stay totaling ten days or less following a hospital admission. The day on which a resident is discharged from

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- d) the facility and admitted to the hospital shall be considered the first day of the ten-day period. (Section 3-401.1(a) of the Act)
- e) Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required under Section 3-408 of the Act and subsection (j) of this Section and by a minimum written notice of 21 days. The 21-day requirement shall not apply in any of the following instances:

- 1) When an emergency transfer or discharge is ordered by the resident's attending physician because of the resident's health care needs; (Section 3-402(a) of the Act)
 - 2) When the transfer or discharge is mandated by the physical safety of other residents, the facility staff, or facility visitors as documented in the clinical record. (Section 3-402(b) of the Act)
- e) The notice required by Section 3-402 of the Act and subsection (d) of this Section shall be on a form prescribed by the Department and shall contain all of the following:

- 1) The stated reason for the proposed transfer or discharge; (Section 3-403(a) of the Act)
 - 2) The effective date of the proposed transfer or discharge; (Section 3-403(b) of the Act)
 - 3) A statement in not less than 12-point type, which reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within ten days after receiving this notice. If you request a hearing, it will be held not later than ten days after your request, and you generally will not be transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility's decision and to request a hearing is attached. If you have any questions, call the Department of Public Health at the telephone number listed below." (Section 3-403(c) of the Act)
 - 4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and (Section 3-403(d) of the Act)
 - 5) The name, address, and telephone number of the person charged with the responsibility of supervising the transfer or discharge. (Section 3-403(e) of the Act)
- f) A request for a hearing made under Section 3-403 of the Act and subsection (e) of this Section shall stay a transfer pending a hearing or appeal of the decision, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-404 of the Act)
- g) A copy of the notice required by Section 3-402 of the Act and

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subsection (d) of this Section shall be placed in the resident's clinical record and a copy shall be transmitted to the Department, the resident, the resident's representative, and, if the resident's care is paid for in whole or part through Title XIX, to the Department of Public Aid. (Section 3-405 of the Act)

h) When the basis for an involuntary transfer or discharge is the result of an action by the Department of Public Aid with respect to a recipient of Title XIX and a hearing request is filed with the Department of Public Aid, the 21-day written notice period shall not begin until a final decision in the matter is rendered by the Department of Public Aid or a court of competent jurisdiction and notice of that final decision is received by the resident and the facility. (Section 3-406 of the Act)

i) When nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to redeem up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (Section 3-407 of the Act)

j) The planned involuntary transfer or discharge shall be discussed with the resident, the resident's representative and person or agency responsible for the resident's placement, maintenance, and care in the facility. The explanation and discussion of the reasons for involuntary transfer or discharge shall include the facility administrator or other appropriate facility representative as the administrator's designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions. This summary shall be made a part of the resident's clinical record. (Section 3-408 of the Act)

k) The facility shall offer the resident counseling services before the transfer or discharge of the resident. (Section 3-409 of the Act)

l) A resident subject to involuntary transfer or discharge from a facility, the resident's guardian or if the resident is a minor, his parent shall have the opportunity to file a request for a hearing with the Department within ten days following receipt of the written notice of the involuntary transfer or discharge by the facility. (Section 3-410 of the Act)

m) The Department of Public Health, when the basis for involuntary transfer or discharge is other than action by the Department of Public Aid with respect to the Title XIX Medicaid recipient, shall hold a hearing at the resident's facility not later than ten days after a hearing request is filed, and render a decision within 14 days after the filing of the hearing request. (Section 3-411 of the Act)

n) The hearing before the Department provided under Section 3-411 of the Act and subsection (m) of this Section shall be conducted as prescribed under Sections 3-703 through 3-712 of the Act. In determining whether a transfer or discharge is authorized, the burden of proof in this hearing rests on the person requesting the transfer or discharge. (Section 3-412 of the Act)

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o) If the Department determines that a transfer or discharge is authorized under Section 3-401 of the Act and subsection (b) of this Section, the resident shall not be required to leave the facility before the 34th day following receipt of the notice required under Section 3-402 of the Act and subsection (c) of this Section, or the tenth day following receipt of the Department's decision, whichever is later, unless a condition which would have allowed transfer or discharge in less than 21 days as described under Section 3-402 of the Act and subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-413 of the Act)

p) The Department of Public Aid shall continue Title XIX Medicaid funding during the appeal, transfer, or discharge period for those residents who are Title XIX recipients affected by Section 3-402 of the Act and subsection (c) of this Section. (Section 3-414 of the Act)

q) Any owner of a facility licensed under this Act shall give 90 days notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. (Section 3-423 of the Act)

Section 340.1480 Complaint Procedures

a) The facility shall develop procedures for investigating complaints concerning theft of resident's property and shall promptly investigate all such complaints. (Section 2-103 of the Act)

b) A resident shall be permitted to present grievances on behalf of himself and others to the administrator, the Long-term Care Facility Advisory Board, the residents' advisory council, State governmental agencies or other persons without threat of discharge or reprisal in any form or manner whatsoever. (Section 2-212 of the Act)

c) The facility administrator shall provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged. (Section 2-212 of the Act)

d) A person who believes that the Act or a rule promulgated under the Act may have been violated may request an investigation. The request may be submitted to the Department in writing, by telephone, or by

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- personal visit. An oral complaint shall be reduced to writing by the Department. (Section 3-702(a) of the Act)
- e) The facility shall provide for the registration and disposition of complaints without threat of discharge or other reprisal against any employee or resident.

Section 340.1490 Private Right of Action

- a) Each resident shall have the right to maintain a private right of action against a facility as described in subsections (b) through (i) of this Section.
- b) The owner and licensee of a facility are liable to a resident for any intentional or negligent act or omission of their agents or employees which injures the resident. (Section 3-601 of the Act)
- c) The licensee shall pay three times the actual damages, or \$500, whichever is greater, and costs and attorney's fees to a facility resident whose rights as specified in Part I of Article II of the Act are violated. (Section 3-602 of the Act)
- d) A resident may maintain an action under the Act and this Part for any other type or relief, including injunctive and declaratory relief, permitted by law. (Section 3-603 of the Act)
- e) Any damages recoverable under subsections (b) through (i) of this Section, including minimum damages as provided by this Part, may be recovered in any action which a court may authorize to be brought as a class action pursuant to part 8 of the Civil Practice Law (Ill. Rev. Stat. 1991, ch. 110, par. 2-801 et seq.) [735 ILCS 5]. The remedies provided in subsections (b) through (i) of this Section are in addition to and cumulative with any other legal remedies available to a resident. Exhaustion of any available administrative remedies shall not be required prior to commencement of a suit hereunder. (Section 3-604 of the Act)
- f) The amount of damages recovered by a resident in an action brought under subsections (b) through (i) of this Section shall be exempt for purposes of determining initial or continuing eligibility for medical assistance under the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 1-1 et seq.) [305 ILCS 5] as now or hereafter amended, and shall neither be taken into consideration nor required to be applied toward the payment or partial payment of the cost of medical care or services available under the Illinois Public Aid Code. (Section 3-605 of the Act)
- g) Any waiver by a resident or legal representative of the right to commence an action under subsections (b) through (i) of this Section, whether oral or in writing, shall be null and void, and without legal force or effect. (Section 3-606 of the Act)
- h) Any party to an action brought under subsections (b) through (i) of this Section shall be entitled to a trial by jury and any waiver of the right to a trial by jury, whether oral or in writing, prior to the commencement of an action, shall be null and void, and without legal

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- force or effect. (Section 3-607 of the Act)
- i) A licensee or its agents or employees shall not transfer, discharge, evict, harass, dismiss, or retaliate against a resident, a resident's representative, or an employee or agent who makes a report of resident abuse or neglect, brings or testifies in a private right of action, or files a complaint, because of the report, testimony or complaint. (Section 3-608 of the Act)

SUBPART D: HEALTH SERVICES

Section 340.1500 Medical Care Policies

- a) The facility shall have a written program of medical services approved in writing by the advisory physician, which reflects the philosophy of care provided, the policies relating to this philosophy, and the procedures for implementation of the services. The program shall include the entire complex of services provided by the facility and the arrangements to effect transfer to other facilities as promptly as needed. The written program of medical services shall be followed in the operation of the facility.
- b) Each resident admitted shall have a physical examination, within five days prior to admission or within 72 hours after admission. The examination report shall include at a minimum each of the following:
- 1) An evaluation of the resident's condition, including height and weight, diagnoses, plan of treatment, recommendations, treatment orders, personal care needs, and permission for participation in activity programs as appropriate.
 - 2) Documentation of the presence or absence of tuberculosis infection by tuberculin skin test in accordance with Section 340.1520.
 - 3) Documentation of the presence or absence of incipient or manifest decubitus ulcers (commonly known as bed sores), with grade, size and location specified, and orders for treatment, if present. (A photograph of incipient or manifest decubitus ulcers is recommended on admission.)
 - 4) Orders from the physician regarding weighing of the resident, and the frequency of such weighing, if ordered.
- c) The facility shall notify the resident's physician of any accident, injury, or significant change in a resident's condition that threatens the health, safety or welfare of a resident, including, but not limited to, the presence of incipient or manifest decubitus ulcers or a weight loss or gain of five percent or more within a period of 30 days. The facility shall obtain and record the physician's plan of care for the care or treatment of such accident, injury or change in condition at the time of notification.
- d) At the time of an accident or injury, immediate treatment shall be provided by personnel trained in first aid procedures.
- e) All medical treatment and procedures shall be administered as ordered

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by a physician. All new physician orders shall be reviewed by the facility's director of nursing or charge nurse designee within 24 hours after such orders have been issued to assure facility compliance with such orders. (Section 2-104(b) of the Act)

f) Every resident shall be permitted to refuse medical treatment and to know the consequences of such action, unless such refusal would be harmful to the health and safety of others and such harm is documented by a physician in the resident's clinical record. (Section 2-104(c) of the Act)

g) All residents shall be permitted to participate in the planning of their total care and medical treatment to the extent that their condition permits. (Section 2-104(a) of the Act)

h) No resident shall be subjected to experimental research or treatment without first obtaining his informed, written consent. The conduct of any experimental research or treatment shall be authorized and monitored by an institutional review committee appointed by the administrator of the facility where such research and treatment is conducted. Any facility desiring to conduct an experimental program or do research that is in conflict with this Part shall submit a written request to the Department and secure prior approval. Such approval will be granted only if the request will not create an unnecessary and unusual threat to the health, welfare, safety or rights of residents or staff. (Section 2-104(a) of the Act)

i) All residents shall be permitted respect and privacy in their medical and personal care program. Every resident's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly, and those persons not directly involved in the resident's care must have the resident's permission to be present. (Section 2-105 of the Act)

Section 340.1505 Medical, Nursing and Restorative Services

a) Adequate and properly supervised nursing care shall be provided to each resident to meet the total nursing care needs of the resident.

b) Restorative/rehabilitative nursing measures shall be practiced on a 24-hour day, seven-day week basis. Those procedures requiring medical approval shall be ordered by the attending physician.

1) The licensed nurse in charge of the restorative/rehabilitative nursing program shall have successfully completed a course or other training program that includes at least 60 hours of classroom/lab training in restorative/rehabilitative nursing as evidenced by a transcript, certificate, diploma, or other written documentation from an accredited school or recognized accrediting agency such as a State or National organization of nursing or a state licensing authority. This person may be the Director of Nursing Services, Assistant Director of Nursing Services or another nurse designated by the Director of Nursing Services to be in charge of the restorative/rehabilitative nursing program.

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2) All nursing personnel shall encourage and assist residents in maintaining good body alignment while standing, sitting, or lying in bed.

3) All nursing personnel shall assist and encourage residents with ambulation as often as necessary but not less than daily, unless otherwise ordered by the physician.

4) All nursing personnel shall teach and assist residents with safe transfer activities in an effort to help them retain or regain their maximum level of independence.

5) All nursing personnel shall assist residents in maintaining maximum joint range of motion and active range of motion.

6) Residents who are incontinent shall be evaluated for an individualized bowel and bladder program, and such a program shall be instituted when appropriate. The use of indwelling catheters shall be discouraged.

7) All nursing personnel shall encourage and, when necessary, teach residents to function at their maximum level in all activities of daily living.

8) Documentation of resident treatment and the resident's response to the treatment shall be maintained.

c) General nursing care shall include at a minimum the following and shall be practiced on a 24-hour, seven-day-a-week basis:

1) Medications including oral, rectal, hypodermic, intravenous, and intramuscular shall be properly administered.

2) Treatments and procedures, including, but not limited to, enemas, irrigations, catheterization, applications of dressings or bandages, and supervision of special diets shall be properly carried out as ordered by the physician.

3) Objective observations of changes in a resident's conditions, including mental and emotional changes, as a means for analyzing and determining care required and the need for further medical evaluation and treatment shall be made by nursing staff and recorded in the resident's medical record.

d) A regular program to prevent and treat pressure sores, heat rashes or other skin breakdown shall be practiced on a 24-hour, seven-day-a-week basis, including but not limited to:

1) An evaluation of each resident shall be conducted upon admittance and as necessary to determine the susceptibility of the resident to skin breakdown. Preventive measures and treatment measures shall be carried out by facility staff.

2) Skin care shall be provided, which includes but is not limited to bathing, clean linen, and clothing each time the resident, the bed or clothing is soiled.

3) Proper equipment shall be utilized to prevent or treat pressure sores, such as proper padding between pressure points, adaptive equipment, splints, and water mattresses.

4) An evaluation of each resident's nutritional status shall be conducted to determine if increased nutritional support is needed

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- in the treatment of pressure sores.
- 5) Residents shall be assisted in being up and out of bed as much as their condition permits. The residents shall be repositioned every two hours whether in bed or out as their conditions indicate.
 - e) If physical therapy, occupational therapy, speech therapy or any other specialized rehabilitative service is offered, it shall be provided by, or supervised by, a qualified professional in that specialty and upon the written order of the physician.
 - 1) In addition to the provision of direct services, any such qualified professional personnel shall be used as consultants to the total restorative program and shall assist with resident evaluation, resident care planning, and inservice education.
 - 2) Appropriate records shall be maintained by these personnel. Direct service to individual residents shall be documented on the individual clinical record as set forth in Section 340.1800(e) of the Part. A summary of program consultation and recommendations shall be documented.

Section 340.1510 Communicable Disease Policies

- a) The administrator shall assume the responsibility for meeting the Department's rules entitled "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) so that there is a minimum danger of transmission of contagious, infectious, or communicable diseases.
- b) A resident with a communicable, contagious or infectious disease shall not be admitted knowingly, except as allowed in subsection (d) of this Section. An individual, when suspected or diagnosed as having any such disease, after admission, shall be placed in isolation, if required, in accordance with the Department's rules entitled "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) until isolation can be discontinued or the person transferred.
- c) All illnesses required to be reported under the rules of the Department of Public Health entitled "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690) and "Control of Sexually Transmissible Diseases Code" (77 Ill. Adm. Code 693) shall be reported immediately to the local health department and to the Department. The administrator shall furnish all pertinent information relating to such occurrences. In addition, the Department shall also be informed of all Scabies and other skin infestations.
- d) Admissions of Persons with Communicable, Contagious, or Infectious Diseases.
 - 1) Persons with communicable, contagious, or infectious diseases may be admitted under the following conditions:
 - A) When a person's infectious condition is directly related to one or more chronic decubital ulcers, from which laboratory tests have proven the presence of a pathogenic organism. Such a resident may be admitted when the facility is capable

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- of implementing appropriate treatment and isolation techniques, to avoid secondary spread of infection.
- B) When a person's condition is communicable, contagious, or infectious only through blood or other body fluid contact, such as hepatitis, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV) infection.
 - 2) The facility shall notify the Department no later than five working days after the date of the admission of any person with a communicable, contagious, or infectious condition under subsection (d)(1) of this Section. The notice to the Department shall include at least the date of the admission and the nature of the condition.
 - 3) Permission to admit or keep a person with other communicable, contagious, or infectious diseases may be approved by the Department on an individual case basis. Such approval will be dependent upon the nature of the infectious condition or disease and the capability of the facility to provide proper care to the person and to adequately safeguard the staff and other residents of the facility from the spread of primary and secondary infections.

Section 340.1520 Tuberculin Skin Test Procedures

Tuberculin skin tests for employees and residents shall be conducted in accordance with the requirements in this Section.

- a) Where there is documentation for an employee or resident of previous significant skin test reaction and previous treatment for tuberculosis, no skin test is required. The facility shall retain such documentation of testing and treatment in the employee's personnel record or the resident's medical record.
- b) The tuberculin skin test shall consist of five tuberculin units of purified protein derivative administered intradermally using the Mantoux method.
- c) A significant reaction shall be considered to exist when either of the following conditions are present:
 - 1) There is an area of induration ten mm or more in diameter; or
 - 2) There is an area of induration five mm or more in diameter and the attending physician or local health authority suspect tuberculosis on the basis of disease or exposure.
- d) If the first test is nonsignificant, a second test shall be given at least one week, but no more than three weeks, after the first test.
- e) If the first or second test reaction is significant, or if active tuberculosis is suspected at any time, the attending physician or local health authority shall order any further examinations and treatment that are considered necessary, such as x-rays, cultures, or sputum smears.

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- a) A resident shall be permitted to retain the services of his own personal physician at his own expense under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage. (Section 2-104(a) of the Act)
- b) The Department shall not prescribe the course of medical treatment provided to an individual resident by the resident's physician in a facility. (Section 2-104(a) of the Act)
- c) The services of a physician licensed to practice medicine in Illinois shall be available to every resident of the facility.
- d) All residents shall be seen by their physician as often as necessary to assure adequate health care.
- e) All residents shall be permitted to obtain from their own physicians or the physician attached to the facility complete and current information concerning their medical diagnoses, treatment and prognoses in terms and language the residents can reasonably be expected to understand. (Section 2-104(a) of the Act)
- f) All physician orders, plans of medical treatment, Medicare/Medicaid Certification and recertification statements must have the original written signature of the physician. The use of a physician's rubber stamp signature with or without initials is not acceptable.

Section 340.1535 Dental Programs

- a) There shall be comprehensive treatment services for all residents which include, but are not limited to, the following:
 - 1) Provision for dental treatment;
 - 2) Provision for emergency treatment by a qualified dentist; and
 - 3) Assistance in arranging transportation to the dentist for treatment.
- b) The direct care staff shall receive inservice education annually. This will be provided by a dentist or a dental hygienist.
 - 1) Direct care staff shall be educated in ultrasonic or manual denture and partial denture cleaning techniques, if applicable.
 - 2) Direct staff shall be educated in proper brushing and oral health care for residents who are unable to care for their own health.
 - 3) Direct care staff shall be educated in examining the mouth in order to recognize abnormal conditions for necessary referral.
 - 4) Direct care staff shall be educated regarding nutrition and diet control measures and the effect on dental health.
 - 5) Supplemental dental training films shall be included with any other health training films seen on a rotating basis.
- c) The dental program shall provide for inservice education to residents and staff under direction of dental staff including, but not limited to, the following:
 - 1) Information regarding nutrition and diet control measures that are dental health oriented.
 - 2) Instruction in proper oral hygiene methods.
 - 3) Instruction concerning the importance of maintenance of proper

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- d) The facility's dental program shall provide for each resident's proper daily personal dental hygiene, with the staff responsible for continuity of care that includes, but is not limited to, the following:
 - 1) Assistance in cleaning the mouth with electric or hand brush if the resident is unable to do so.
 - 2) Proper cleaning of dentures and partials, if applicable.
 - e) If applicable, each facility shall have a denture and dental prosthesis marking system that takes into account the identification marking system contained in Section 49 of the Illinois Dental Practice Act (Ill. Rev. Stat. 1991, ch. 111, par. 2349). Policies and procedures shall be written and contained in the facility's policies and procedures manual. It shall include, at minimum, provision for:
 - 1) Marking individual dentures or dental prosthesis, if not marked prior to admission to the facility, within ten days of admittance; and
 - 2) Individually marked denture cups for dental storage at night.

Section 340.1540 Life-Sustaining Treatments

- a) Every facility shall respect the residents' right to make decisions relating to their own medical treatment, including the right to accept, reject, or limit life-sustaining treatment. Every facility shall establish a policy concerning the implementation of such rights. Included within this policy shall be:
 - 1) Implementation of Living Wills or Powers of Attorney for Health Care in accordance with the Living Will Act (Ill. Rev. Stat. 1991, ch. 110 1/2, pars. 701 et seq.) [755 ILCS 35] and the Powers of Attorney for Health Care Law (Ill. Rev. Stat. 1991, ch. 110 1/2, pars. 804-1 et seq.) [755 ILCS 45/Art. IV];
 - 2) The implementation of physician orders limiting resuscitation such as those commonly referred to as "Do-Not-Resuscitate" orders. This policy may only prescribe the format, method of documentation and duration of any physician orders limiting resuscitation. Any orders under this policy shall be honored by the facility. (Section 2-104.2 of the Act)
 - 3) procedures for providing life-sustaining treatments available to residents at the facility;
 - 4) procedures detailing staff's responsibility with respect to the provision of life-sustaining treatment when a resident has chosen to accept, reject, or limit life-sustaining treatment, or when a resident has failed or has not yet been given the opportunity to make these choices; and
 - 5) procedures for educating both direct and indirect care staff in the application of those specific provisions of the policy for

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which they are responsible.

- b) For the purposes of this Section:
- 1) "Agent" means a person acting under a Health Care Power of Attorney in accordance with the Powers of Attorney for Health Care Law;
 - 2) "Life-sustaining treatment" means any medical treatment, procedure, or intervention that, in the judgement of the attending physician, when applied to a resident, would serve only to prolong the dying process. Those procedures can include, but are not limited to, cardiopulmonary resuscitation (CPR), assisted ventilation, renal dialysis, surgical procedures, blood transfusions, and the administration of drugs, antibiotics, and artificial nutrition and hydration. Those procedures do not include performing the Heimlich maneuver or clearing the airway, as indicated;
 - 3) "Surrogate" means a surrogate decision maker acting in accordance with the Health Care Surrogate Act (Ill. Rev. Stat. 1991, ch. 110 1/2, pars. 851-1 et seq.) [755 ILCS 40].
- c) Within 30 days of admission for new residents, and within one year of the effective date of this Section for all residents who were admitted prior to the effective date of this Section, residents, agents, or surrogates shall be given written information describing the facility's policies required by this Section and shall be given the opportunity to:
- 1) execute a Living Will or Power of Attorney for Health Care in accordance with State law, if they have not already done so; and/or
 - 2) decline consent to any or all of the life-sustaining treatments available at the facility.
- d) Any decision made by a resident, an agent, or a surrogate pursuant to subsection (c) above must be recorded in the resident's medical record. Any subsequent changes or modifications must also be recorded in the medical record.
- e) The facility shall honor all decisions made by a resident, an agent, or a surrogate pursuant to subsection (c) above and may not discriminate in the provision of health care on the basis of such decision or will transfer care in accordance with the Living Will Act, the Powers of Attorney for Health Care Law, the Health Care Surrogate Act or the Right of Conscience Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 5301 et seq.) [745 ILCS 70].
- f) The resident, agent, or surrogate may change his or her decision regarding life-sustaining treatments by notifying the treating facility of this decision change orally or in writing in accordance with State law.
- g) The physician shall confirm the resident's choice by writing appropriate orders in the patient record or will transfer care in accordance with the Living Will Act, the Powers of Attorney for Health Care Law, the Health Care Surrogate Act or the Right of Conscience

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- h) If no choice is made pursuant to subsection (c) above, and in the absence of any physician's order to the contrary, then the facility's policy with respect to the provision of life-sustaining treatment shall control until and if such a decision is made by the resident, agent, or surrogate in accordance with the requirements of the Health Care Surrogate Act.

Section 340.1550 Obstetrical and Gynecological Care

Every woman resident of child-bearing age shall receive routine obstetrical and gynecological evaluations as well as necessary prenatal care. (Section 2-104(b) of the Act) In addition, women residents should be referred immediately for diagnosis whenever pregnancy is suspected.

- a) "Routine obstetrical evaluations" and "necessary prenatal care" shall include, as a minimum, the following:
- 1) Early diagnosis of pregnancy.
 - 2) A comprehensive health history, including menstrual history, and data on the current pregnancy that allow the physician to estimate the date of delivery.
 - 3) Identification of factors in the current pregnancy that help identify the patient at high risk, such as maternal age, vaginal bleeding, edema, urinary infection, exposure to radiation and chemicals, ingestion of drugs and alcohol, and use of tobacco.
 - 4) A comprehensive physical examination, including an evaluation of nutritional status; determination of height, weight and blood pressure; examination of the head, breasts, heart, lungs, abdomen, pelvis, rectum, and extremities.
 - 5) The following laboratory tests, as early in pregnancy as possible. Findings obtained from the history and physical examination may determine the need for additional laboratory evaluations:
 - A) Hemoglobin or hematocrit measurement;
 - B) Urinalysis, including microscopic examination or culture;
 - C) Blood group and Rh type determination;
 - D) Antibody screen;
 - E) Rubella antibody titer measurement;
 - F) Syphilis screen;
 - G) Cervical cytology;
 - H) Viral hepatitis (HBsAg) testing.
 - 6) A risk assessment, which, based on the findings of the history and physical examination, should indicate any risk factors that may require special management, such as cardiovascular disease, maternal age less than 15 years or more than 35 years, neurologic disorder, or congenital abnormalities.
 - 7) Return visits, the frequency of which will be determined by the resident's needs and risk factors. Generally a woman with an uncomplicated pregnancy should be seen every 4 weeks for the

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first 28 weeks of pregnancy, every 2-3 weeks until 36 weeks of gestation, and weekly thereafter.

- 8) The physical examination at each visit should include determinations of blood pressure, measured fundal height, fetal heart rate, and, in later months, fetal presentation, and urinalysis for albumin and glucose. Hemoglobin or hematocrit level should be measured again early in the third trimester. Glucose screening is recommended for women who are 30 years of age or older.

- 9) Evaluation and monitoring of nutritional status and habits.

- 10) Education for health promotion and maintenance.

- 11) Counseling concerning exercise and childbirth education programs.
- 12) Postpartum review and evaluation 4-8 weeks after delivery, including determination of weight and blood pressure and assessment of status of breasts, abdomen, and external and internal genitalia.

- b) "Routine gynecological evaluations" shall include, as a minimum, the following:

- 1) An initial examination, the basic components of which are:

- A) History; any present illnesses; menstrual, reproductive, medical, surgical, emotional, social, family, and sexual history; medications; allergies; family planning; and systems review.

- B) Physical examination, including height, weight, nutritional status, and blood pressure; head and neck, including thyroid gland; heart; lungs; breasts; abdomen; pelvis, including external and internal genitalia; rectum; extremities, including signs of abuse; lymph nodes.

- C) Laboratory tests, including urine screen; hemoglobin or hematocrit determination and, if indicated, complete blood cell count; cervical cytology; rubella titer.

- 2) Annual updates:

- A) History, including the purpose of the visit; menstrual history; interval history, including systems review; emotional history.

- B) Physical examination, including weight, nutritional status and blood pressure; thyroid gland; breasts; abdomen; pelvis, including external and internal genitalia; rectum; other areas as indicated by the interval history.

- C) Laboratory, including urine screen; cervical cytology, unless not indicated; hemoglobin or hematocrit determinations.

- D) Additional laboratory tests, such as screening for sexually transmitted disease, should be performed as warranted by the history, physical findings, and risk factors.

- 3) Cancer screening:

- A) An annual Pap test for all women who are or have been sexually active or have reached age 18.

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- c) B) Mammography if indicated.

- c) When a resident is referred for a diagnosis of pregnancy and/or prenatal care, the facility shall send the provider a copy of the resident's medical record, including a list of prescription medications taken by the resident; if known, the use of alcohol, tobacco and illicit drugs; or exposure to radiation or chemicals during the preceding three months.

Section 340.1560 Nursing Personnel

- a) There shall be sufficient number of nursing and auxiliary personnel on duty each day to provide adequate and properly supervised nursing services to meet the nursing needs of the residents.
- b) There shall be at least one person awake, dressed and on duty at all times in each separate unit.
- c) Nursing service personnel at all levels of experience and competence shall only be assigned responsibilities in accordance with their qualifications.

Section 340.1570 Personal Care

- a) Personal care, as defined in Section 340.1000, shall be provided on a 24-hour, seven-day-a-week basis, as needed by the resident. This shall include, but not be limited to, the following:

- 1) Each resident shall have proper daily personal attention, including skin, nails, hair, and oral hygiene, in addition to any treatment ordered by the physician.

- 2) Each resident shall have at least one complete bath and shampoo weekly and as many additional baths and shampoos as necessary for satisfactory personal hygiene.

- 3) Each resident shall have clean suitable clothing in order to be comfortable, sanitary, free of odors, and decent in appearance. Unless otherwise indicated by their physician, this should be street clothes and shoes.

- 4) Each resident shall have clean bed linens at least once weekly and more often if necessary.

- b) *If clothing is provided to the resident by the facility it shall be of proper fit.* (Section 2-103 of the Act)

Section 340.1580 Restraints

- a) The facility shall have written policies controlling the use of physical restraints, including but not limited to leg restraints, arm restraints, hand mitts, soft ties or vests, wheelchair safety bars and all facility practices that meet the definition of a restraint. Such practices shall include, but not be limited to: tucking in a sheet so tightly that a bed-bound resident cannot move; bed rails; chairs that prevent rising; or placing a resident who uses a wheelchair so close

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to a wall that the wall prevents the resident from rising. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as physical restraints. The policies shall be followed in the operation of the facility and shall comply with the Act and this Part. These policies shall be developed by the medical advisory committee or the advisory physician with participation by nursing and administrative personnel.

- b) No restraints with locks shall be used.
- c) Physical restraints shall not be used on a resident for the purposes of discipline or convenience.
- d) The use of chemical restraints is prohibited.

Section 340.1590 Nonemergency Use of Physical Restraints

a) Physical restraints shall only be used when required to treat the residents' medical symptoms or as a therapeutic intervention, as ordered by a physician, and based on:

- 1) the assessment of the resident's capabilities and an evaluation and trial of less restrictive alternatives that could prove effective (Section 2-106(c) of the Act);
- 2) the assessment of a specific physical condition or medical treatment, that requires the use of physical restraints, and how the use of physical restraints will assist the resident in reaching his or her highest practicable physical, mental or psychosocial well being (Section 2-106(c) of the Act);
- 3) consultation with appropriate health professionals, such as rehabilitative nurses and occupational or physical therapists, which indicates that the use of less restrictive measures or therapeutic interventions has proven ineffective; and
- 4) demonstration by the care planning process that using a restraint as a therapeutic intervention will promote the care and services necessary for the resident to attain or maintain the highest practicable physical, mental or psychosocial well being. (Section 2-106(c) of the Act, see P.A. 88-413, effective August 20, 1993)

b) A physical restraint may be used only with the informed consent of the resident, the resident's guardian, or other authorized representative. (Section 2-106(c) of the Act, see P.A. 88-413, effective August 20, 1993) Informed consent includes information about potential negative outcomes of physical restraint use, including incontinence, decreased range of motion, decreased ability to ambulate, symptoms of withdrawal or depression, or reduced social contact.

c) The informed consent may authorize the use of a physical restraint for a specified period of time. The effectiveness of the physical restraint in treating medical symptoms or as a therapeutic intervention, and any negative impact on the resident, shall be assessed by the facility throughout the period of time the physical

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restraint is used.

- d) After 50% of the period of restraint use authorized by the informed consent has expired but not less than five days before it has expired, information about the actual effectiveness of the restraint in treating the resident's medical symptoms or as a therapeutic intervention and about any actual negative impact on the resident shall be given to the resident, resident's guardian, or other authorized representative before the facility secures an informed consent for an additional period of time. Information about the effectiveness of the restraint program and about any negative impact on the resident shall be provided in writing.
- e) A physical restraint may be applied only by staff trained in the application of the particular type of restraint. (Section 2-106(d) of the Act, see P.A. 88-413, effective August 20, 1993)
- f) Whenever a period of use of a physical restraint is initiated, the resident shall be advised of his or her right to have a person or organization of his or her choosing, including the Guardianship and Advocacy Commission, notified of the use of the physical restraint. A period of use is initiated when a physical restraint is applied to a resident for the first time under a new or renewed informed consent for the use of physical restraints. A recipient who is under guardianship may request that a person or organization of his or her choosing be notified of the restraint, whether or not the guardian approves the notice. If the resident so chooses, the facility shall make the notification within 24 hours, including any information about the period of time that the physical restraint is to be used. Whenever the Guardianship and Advocacy Commission is notified that a resident has been restrained, it shall contact the resident to determine the circumstances of the restraint and whether further action is warranted. (Section 2-106(e) of the Act, see P.A. 88-413, effective August 20, 1993) If the resident requests that the Guardianship and Advocacy Commission be contacted, the facility shall provide the following information in writing to the Guardianship and Advocacy Commission:
 - 1) the reason the physical restraint was needed;
 - 2) the type of physical restraint that was used;
 - 3) the interventions utilized or considered prior to physical restraint and the impact of those interventions;
 - 4) the length of time the physical restraint was to be applied; and
 - 5) the name and title of the facility staff person who should be contacted for further information.
- g) Whenever a physical restraint is used on a resident whose primary mode of communication is sign language, the resident shall be permitted to have his or her hands free from restraint for brief periods each hour, except when this freedom may result in physical harm to the resident or others. (Section 2-106(f) of the Act, see P.A. 88-413, effective August 20, 1993)
- h) The plan of care shall contain a schedule or plan of

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rehabilitative/habilitative training to enable the most feasible progressive removal of physical restraints or the most practicable progressive use of less restrictive means to enable the resident to attain or maintain the highest practicable physical, mental or psychosocial well being.

- i) A resident wearing a physical restraint shall have it released for a few minutes at least once every two hours, or more often if necessary. During these times, residents shall be assisted with ambulation, as their condition permits, and provided a change in position, skin care and nursing care, as appropriate.
- j) No form of seclusion shall be permitted.

Section 340.1600 Emergency Use of Physical Restraints

a) *If a resident needs emergency care, physical restraints may be used for brief periods to permit treatment to proceed unless the facility has notice that the resident has previously made a valid refusal of the treatment in question.* (Section 2-106(c) of the Act, see P.A. 88-413, effective August 20, 1993)

b) For this Section only, "emergency care" means the unforeseen need for immediate treatment inside or outside the facility that is necessary to:

- 1) save the resident's life;
- 2) prevent the resident from doing serious mental or physical harm to himself/herself; or
- 3) prevent the resident from injuring another individual.

c) If a resident needs emergency care and other less restrictive interventions have proved ineffective, a physical restraint may be used briefly to permit treatment to proceed. The attending physician shall be contacted immediately for orders. If the attending physician is not available, the facility's advisory physician or Medical Director shall be contacted. If a physician is not immediately available, a nurse with supervisory responsibility may approve, in writing, the use of physical restraints. A confirming order, which may be obtained by telephone, shall be obtained from the physician as soon as possible, but no later than eight hours after the physical restraint has been applied. The effectiveness of the restraint in treating medical symptoms or as a therapeutic intervention, and any negative impact on the resident, shall be assessed by the facility throughout the period of time the restraint is used. The resident must be in view of a staff person at all times until either the resident has been examined by a physician or the restraint is removed. The resident's needs for toileting, ambulation, hydration, nutrition, repositioning, and skin care must be met while the physical restraint is being used.

d) The emergency use of a physical restraint must be documented in the resident record, including:

- 1) the behavior incident that prompted the use of the physical

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restraint;

- 2) the date and times the physical restraint was applied and released;
 - 3) the name and title of the person responsible for the application and supervision of the physical restraint;
 - 4) the action by the resident's physician upon notification of the physical restraint use;
 - 5) the new or revised orders issued by the physician; and
 - 6) the effectiveness of the physical restraint in treating symptoms or as a therapeutic intervention, and any negative impact on the resident; and
 - 7) the date of the scheduled care planning conference or the reason a care planning conference is not needed, in light of the resident's emergency need for restraints.
- e) The facility's emergency use of physical restraints shall comply with Sections 340.1590 (e), (f), (g), and (j).

Section 340.1610 Unnecessary, Psychotropic, and Antipsychotic Drugs

a) *A resident shall not be given unnecessary drugs in accordance with Section 340.1610. In addition, an unnecessary drug is any drug used:*

- 1) *in an excessive dose, including in duplicative therapy;*
 - 2) *for excessive duration;*
 - 3) *without adequate monitoring;*
 - 4) *without adequate indications for its use; or*
 - 5) *in the presence of adverse consequences that indicate the drugs should be reduced or discontinued.* (Section 2-106.1(a) of the Act, see P.A. 88-413, effective August 20, 1993)
- b) *Psychotropic medication shall not be prescribed without the informed consent of the resident, the resident's guardian, or other authorized representative.* (Section 2-106.1(b) of the Act, see P.A. 88-413, effective August 20, 1993) Informed consent includes information about potential negative outcomes of psychotropic medication use. Additional informed consent is not required for reduction in dosage level or deletion of a specific medication.
- c) Residents shall not be given antipsychotic drugs unless antipsychotic drug therapy is necessary, as documented in the resident's comprehensive assessment, to treat a specific or suspected condition as diagnosed and documented in the clinical record or to rule out the possibility of one of the conditions in accordance with Section 340.1610. Table B, Guidelines for the Use of Various Drugs.
- d) Residents who use antipsychotic drugs shall receive gradual dose reductions and behavior interventions, unless clinically contraindicated, in an effort to discontinue these drugs in accordance with Section 340.1610. Table B, Guidelines for the Use of Various Drugs.
- e) For the purposes of this Section:
- 1) "Duplicative drug therapy" means any drug therapy that duplicates

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a particular drug effect on the resident without any demonstrative therapeutic benefit. For example, any two or more drugs, whether from the same drug category or not, that have a sedative effect.

2) "Psychotropic medication" means medication that is used for or listed as used for antipsychotic, antidepressant, antimanic or antianxiety behavior modification or behavior management purposes in the latest edition of the *AMA Drug Evaluations* or the *Physician's Desk Reference* or Drug Evaluation Subscription, American Medical Association, Vols. I-III, Summer 1993. (Section 2-106.1(b) of the Act, see P.A. 88-413, effective August 20, 1993)

3) "Antipsychotic Drug" means a neuroleptic drug that is helpful in the treatment of psychosis and has a capacity to ameliorate thought disorders.

Section 340.1620 Medication Administration

a) Every facility shall adopt written medication administration policies and procedures which are consistent with the Act and this Part and which shall be followed in the operation of the facility. These policies and procedures shall be in compliance with all applicable federal, State and local laws.

b) Medications shall be administered by licensed medical or licensed nursing personnel in accordance with their respective licensing requirements. Some schools of nursing, especially some licensed practical nursing schools, do not include pharmacology courses. It is required that graduates of such schools successfully complete a course in pharmacology or have at least one year's full-time supervised experience in administering medications in a health care setting, in order to be considered to be properly qualified, by training or experience, to administer medications.

c) All legend medications maintained in the facility shall be on individual prescription or from the physician's personal office supply. A physician who supplies medication from his/her personal office supply must comply with the requirements of Section 33 of the Medical Practice Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, par. 4400-33) [225 ILCS 60].

Section 340.1630 Self-Administration of Medication

a) A resident may self-administer medications, as approved in writing, by the resident's personal physician.

b) All medications shall be properly labeled and stored in a locked area at all times. Areas shall be well lighted and of sufficient size to permit storage without crowding. This area may be a drawer, closet, cabinet or room. The medication area shall not be used for any other purpose. It shall not be located in residents' rooms, bathrooms or

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the kitchen, except as allowed in subsection (d) of this Section. The key to the medication area shall be the responsibility of, and in the possession of, the staff persons responsible for overseeing the self-administration of medications by residents.

c) If the medication policies of the facility permit residents to be totally responsible for their own medication, when the attending physician gives written permission for such action, the policies of the facility shall provide that the resident and attending physician shall be given written statements concerning the relative responsibilities of each of the three parties (facility, resident and physician), in cases where the resident, or any other person, suffers harm due to the resident's actions in handling his or her own medications.

d) Residents who are totally responsible for their own medication shall maintain possession of the key or combination of the lock to their own medication storage area, which may be a locked drawer or cabinet in the resident's room or private bathroom along with other possessions of that resident. A duplicate key, or a copy of the combination, shall be kept by the facility in its safe, or some other secure place, for emergency use, such as if the resident should lose or misplace his/her key, or forget the combination.

e) Facility staff must not administer medications unless they are properly licensed in Illinois as a nurse or physician. Unlicensed facility staff may assist in self-administration of medications as follows:

1) They may prompt a resident that it is the time to take medication.

2) They may assist a resident in the self-administration of medications by taking the medication from the locked area where it is stored and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

3) Facility staff may also assist physically impaired residents, such as those who have arthritis, cerebral palsy, or Parkinson's disease, in the removal of the medication from the container and in assisting the resident in consuming or applying the medication when requested to do so by the resident. (For example, a staff member may place a dose of medicine in a container and place the container to the mouth of a resident who would not be able to do so himself without spilling it.)

Agency Note: Attorney General's Opinion File NO. S-1033, dated January 9, 1976, concluded that the administration of medication to residents of licensed long-term care facilities is a nursing procedure, as defined in the Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 3501 et seq.) [225 ILCS 65], and as such, cannot be performed by persons who are not licensed as either Registered Professional Nurses or Licensed Practical Nurses. The opinion concluded by stating that "nursing aides, orderlies,

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attendants, and other auxiliary workers who are employed in nursing homes are not permitted to administer medications to patients in nursing homes."

SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section 340.1650 Medication Policies and Procedures

- a) Medication administration services are provided by a facility when medications are administered by facility staff. Facilities which provide medication administration services shall comply with this Subpart and shall develop the medication administration policies and procedures required by Section 320.1620 with the approval of the pharmaceutical advisory committee that includes at least a registered pharmacist, physician, administrator and Director of Nursing Services. (This is not intended to limit the facility's organization of responsibilities. Any group which includes at least these four members may approve these policies and procedures.)
- b) No facility shall maintain a stock supply of controlled drugs or legend drugs, except for those in the emergency medication kits and convenience boxes, as described in subsections (e) and (f) of this Section.
- c) A facility may stock drugs that are regularly available without prescription at a commercial pharmacy, such as: noncontrolled cough syrups, laxatives, and analgesics. These shall be given to a resident only upon written order of the physician, dentist, or podiatrist, shall be administered from the original containers, and shall be recorded in the resident's clinical record.
- d) A facility may keep "convenience boxes" containing a reasonable number of medications normally used to treat conditions when residents suddenly become ill in nonlife-threatening situations. There shall be no more than six single doses of any one medication for each 100 licensed beds or portion thereof. Such conditions may include, but are not limited to convulsions, serious emotional upsets, diarrhea, infection, and severe pain. A dose shall be that amount listed by the manufacturer as the "usual dose" of the medication for adults. If the "usual dose" is two tablets, the facility may keep 12 tablets in the convenience box.
 - 1) The contents and number of these "convenience boxes" shall be determined by the pharmaceutical advisory committee, and there shall be a label on the outside of each box, listing the contents.
 - 2) Each "convenience box" shall be under the control of the pharmacy which supplies the contents of the box, and it shall be kept in a locked medicine room or cabinet.
 - 3) No Schedule II substances shall be kept in "convenience boxes."
- e) Emergency medications kits containing drugs necessary for life saving measures shall be approved by the facility's pharmaceutical advisory

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committee, and shall be available for immediate use at all times in locations as determined by the pharmaceutical advisory committee.

- 1) In order to provide better security for the contents of these kits, it is recommended that some type of seal be placed on each kit after it has been checked and refilled. This would ensure that the contents of each kit are intact when needed in an emergency.
- 2) These kits shall consist of no more than three single, injectable doses of only a few medications, such as those necessary to treat: cardiac arrest, acute coronary, acute cardiac failure, asthmatic or allergic reactions, acute convulsions, acute pain, shock, diabetic coma, insulin shock, and an acute respiratory infection requiring emergency administration of a starter dose of an injectable antibiotic. The kits should also contain all of the equipment needed to administer these medications, such as a tourniquet, proper size needles and syringes, and alcohol swabs. It is also permissible to have an airway in these kits.
- 3) The contents of these kits shall be labeled on the outside of each kit. The kits shall be refilled as needed. They shall be reviewed by the pharmaceutical advisory committee regarding content at least quarterly. Written documentation of this review shall be maintained.
- f) Since emergency medications kits must be available for immediate use at all times, the following requirements must be met when controlled substances are kept as part of the emergency medication kits:
 - 1) The controlled substances must be stored separately in a locked cabinet or room, and labeled as to substance and the fact that they are a part of the emergency medication kit. The label of the emergency kit shall list the substances and the specific location where they are stored.
 - 2) The controlled substances must be obtained from a Drug Enforcement Administration registered hospital, pharmacy, or practitioner.
 - 3) Only the director of nursing services, registered nurse on duty, licensed practical nurse on duty, consultant pharmacist or practitioner shall have access to these controlled substances.
 - 4) No more than ten different controlled substances shall be kept as part of an emergency medication kit, and there shall be no more than three single, injectable doses of any one controlled substance.
 - 5) These controlled substances may be administered only under the emergency conditions set forth in subsection (e)(2) of this Section and only by registered nurses, licensed practical nurses or practitioners, in compliance with 21 CFR 1306.11 and 21 CFR 1306.21 and the Department of Professional Regulation's rules for the administration of the Illinois Controlled Substance Act (77 Ill. Adm. Code 3100).
 - 6) A proof-of-use sheet shall be stored with each separate

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controlled substance. Entries shall be made on the proof-of-use sheet by the nursing staff or practitioner when any controlled substance from the kit is used. The consultant pharmacist shall receive and file for two years a copy of all completed proof-of-use sheets.

- 7) Whenever the controlled substance portion of an emergency medication kit is opened, the consultant pharmacists shall be notified within 24 hours. During any period when this kit is opened, a shift count shall be done on all controlled substances until the kit is closed or locked by the consultant pharmacist. Shift counts are not mandatory when the kit is sealed. Proper forms for shift counts shall be kept with these portions of emergency medication kits.
- 8) The consultant pharmacist shall check the controlled substances portions of emergency medication kits at least monthly and so document on the outside of each kit.
- 9) Failure to comply with any provision of this rule, or of any applicable provision of State or federal statutes or regulations pertaining to controlled substances shall result in loss of the privilege of having or placing controlled substances in emergency medication kits until such time as the facility can demonstrate that it is in compliance with such regulations. This is in addition to the usual methods of corrective action available to the Department, such as fines and other penalties.
- g) Oxygen may be administered in a facility either as concentrated bottled oxygen or via means of an oxygen concentrator. Storage and handling of the bottled oxygen supply shall be in accordance with the 1993 National Fire Protection Association Standards, but no subsequently amended edition of the standards, for nonflammable medical gas systems. The facility must be in compliance with directions for use of oxygen concentrators as established by the manufacturer.

Section 340.1655 Conformance with Physician's Orders

- a) All medications, including cathartics, headache remedies, or vitamins, shall be given only upon the written order of a physician. All such orders shall have the handwritten signature of the physician. (Rubber stamp signatures are not acceptable.) These medications shall be given as prescribed by the physician and at the designated time.
- b) Telephone orders may be taken by a registered nurse or licensed practical nurse. All such orders shall be immediately written on the resident's clinical record, or a "telephone order form" and signed by the nurse taking the order. These orders shall be countersigned by the physician within ten working days.
- c) The staff pharmacist or consultant pharmacist shall review the medical record, including physician orders and laboratory test results, at least monthly and, based on their clinical experience and judgement,

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and Section 340.1660, determine if there are irregularities which would cause potential adverse reactions, allergies, contraindication, or ineffectiveness. This review shall be done at the facility. Documentation of this review must be entered in the clinical record. Any irregularities noted shall be reported to the attending physician, the advisory physician, and the administrator.

- d) A medication order not specifically limiting the time or number of doses shall be automatically stopped in accordance with written policies approved by the pharmaceutical advisory committee.
- e) The resident's attending physician shall be notified of medications about to be stopped so that the physician may promptly renew such orders to avoid interruption of the resident's therapeutic regimen.
- f) All medications to be released to the resident, or person responsible for the resident's care, at the time of discharge or when the resident is going to be temporarily out of the facility at medication time (such as when attending a vocational training program or a weekend pass) shall be approved by the physician. A notation concerning their disposition shall be made on the resident's clinical record.

Section 340.1660 Administration of Medication

- a) Medications shall be administered as soon as possible after doses are prepared and administered by the same person who prepared the doses for administration, except under single unit dose packaged distribution systems.
- b) Each dose administered shall be properly recorded in the clinical records by the person who administers the dose.
- c) The facility shall have medication records, which shall be used and checked against the physician's orders to assure proper administration of medicine to each resident. Such records as computer-generated medication sheets may be used. Medication records shall include or be accompanied by recent photographs or other means of easy identification such as resident identification wristbands. Medication records shall contain the resident's name, diagnosis, known allergies, current medications, and, if available, a history of prescription and non-prescription medications taken by the resident during the 30 days prior to admission to the facility.
- d) Medications prescribed for one resident shall not be administered to another resident.
- e) If for any reason, a physician's medication order cannot be followed, the physician shall be notified as soon as is reasonable, depending upon the situation, and a notation made on the resident's record.
- f) Medication errors and drug reactions shall be immediately reported to the resident's physician and the consulting pharmacist. An entry thereof shall be made in the resident's clinical record and the error or reaction shall also be described in an incident report.
- g) Current medication references shall be available, such as the current edition of "Facts and Comparisons, Hospital Formulary," "Physician's

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Desk Reference" or other suitable references.

Section 340.1665 Control of Medications

- a) All Schedule II controlled substances shall be stored in such a manner so that two separate locks, using two different keys, must be unlocked to obtain these substances. This may be accomplished by several methods such as locked cabinets within locked medicine rooms, separately locked, securely fastened boxes (or drawers) within a locked medicine cabinet, locked portable medication carts, which are stored in locked medicine rooms when not in use, or portable medication carts containing a separate locked area within the locked medication cart, when such cart is made immobile.
- b) All discontinued medications, or those having an expiration date that has passed, and all medications of residents who have been discharged or who have expired, shall be disposed of in accordance with the written policies and procedures. This rule shall not apply to residents who have been temporarily transferred to a hospital or who are on a temporary home visit. Medications for such persons shall be kept in the facility until such time as the resident expires or is discharged from the facility.
- c) Inventory Controls
 - 1) For all Schedule II substances, a controlled substances record shall be maintained which lists on separate sheets, for each type and strength of Schedule II substances, the following information: date, time administered, name of resident, dose, physician's name, signature of person administering dose, and number of doses remaining.
 - 2) The pharmaceutical advisory committee may also require that other medications shall be subject to such inventory records.

Section 340.1670 Labeling and Storage of Medication

- a) The label of each individual multi-dose medication container filled by a pharmacist shall clearly indicate the resident's full name, physician's name, prescription number, name, strength and quantity of drug, date this container was last filled, the initial of the pharmacist filling the prescription, the identity of the pharmacy, and any necessary special instructions. If the individual multi-dose medication container is dispensed by a physician from his own supply, the label shall clearly indicate all the preceding information except that pertaining to the identification of the pharmacy, pharmacist, and prescription number.
- b) Each single unit or unit dose package shall bear the proprietary or nonproprietary name of the drug, strength of dose and total contents delivered, lot or control number, and expiration date, if applicable. The names of the resident and the physician do not have to be on the label of the package, but they must be identified with the package in

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- such a manner as to assure that the drug is administered to the right resident. Appropriate accessory and cautionary statements and any necessary special instruction shall be included, as applicable. Hardware for storing and delivering the medications shall have a label bearing the identity of the dispensing pharmacy. The pharmacist shall provide written verification of the date the medications were dispensed and the initials of the pharmacist who reviewed and verified the medications on hand. The pharmacist need not store such verification at the facility but shall readily make it available to the Department upon request. The lot or control number need not appear on unit dose packages if the dispensing pharmacy has a system for identifying those doses recalled by the manufacturer/distributor or if the dispensing pharmacy will recall and destroy all dispensed doses of a recalled medication, irrespective of a manufacturer's/distributor's specifically recalled lot.
- c) Medication in containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or dispensing physician for relabeling or disposal. Medications in containers having no labels shall be destroyed in accordance with federal and State laws.
 - d) The medications of each resident shall be kept and stored in their originally received containers. Medications shall not be transferred between containers, except that a licensed nurse may remove medication from original containers and place it in other containers to be sent with a resident when the resident will be out of the facility at the time of scheduled administration of medication, as, for instance, when the resident is on a home visit or away from the facility for employment, workshop, or educational activities. When medication is sent out of the facility with the resident, it shall be labeled by the nurse with the name of the resident, name of the medication, instructions for taking, and any other appropriate information.
 - e) All medications for external use shall be kept in a separate area in the medicine cabinet, medicine room, or mobile medication cart.
 - f) All poisonous substances and other hazardous compounds, such as sterilization solutions, irrigation solutions, antiseptics, and diagnostic reagents, shall be kept in a separate locked container away from medications.
 - g) Biologicals or medications requiring refrigeration shall be kept in a separate, securely fastened locked box within a refrigerator or a locked refrigerator, at or near the nurses' station or in a refrigerator within a locked medication room.
 - h) The key to the medicine cabinet, medicine room, or mobile medication cart shall be the responsibility of, and in the possession of, the persons authorized to handle and administer medications, at all times.
 - i) All medications for all residents shall be properly labeled and stored at, or near, the nurses' station, in a locked cabinet, a locked medication room, or one or more locked mobile medication carts of satisfactory design for such storage.

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- 1) These cabinets, rooms, and carts shall be well lighted and of sufficient size to permit storage without crowding.
- 2) All mobile medication carts shall be under the visual control of the responsible nurse at all times when not stored safely and securely either in a locked room or otherwise made immobile.

SUBPART F: RESIDENT LIVING SERVICES

Section 340.1700 Recreational and Activity Programs

- a) The facility shall provide recreational and activity services as necessary to meet the needs of the residents. These services shall be coordinated with other services and programs provided the residents, in order to make fullest possible use of both community and facility resources and to maximize benefits to the residents.
- b) There shall be a specific planned program of group and individual activities designed to encourage habilitation or restoration to self-care and maintenance of normal activity that is geared to the individual resident's needs. Activities shall be available daily and for a reasonable amount of time, taking into account individuals' past interests and the development of new interests. Residents shall be given an opportunity to contribute to planning, preparing, conducting, cleaning up, and critiquing of the program.
- c) There shall be written permission, with any contraindications stated, given by the resident's physician for the resident to participate in the activity program. Standing orders will be acceptable with individual contraindications noted.
- d) Activity program supplies and equipment shall be provided in sufficient quantity and variety to carry out the activity program objectives and to maintain an ongoing program to meet the varied interests and needs of the residents. These shall include, but are not limited to, games, craft supplies, current magazines, books, radio, television, and record or tape player. A piano or organ is recommended as an important adjunct to the activity program equipment.
- e) There shall be a trained staff person designated responsible for planning and directing the activities program. This person shall be on duty for a sufficient amount of time to provide a program that meets the residents' needs and interests. Additional activity personnel shall be provided as necessary to meet the needs of the residents and the program.
- f) If this person is not a Registered Occupational Therapist, a Therapeutic Recreation Specialist, or a Certified Social Worker with specialized coursework in social group work, the facility shall have a written agreement with a person from one of those disciplines to provide consultation to the Activity Director in order to make sure that the activity programming meets the needs of the residents of the facility.
- g) The activity program should include at a minimum the following program

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areas:

- 1) Recreational activities (examples: games, both quiet and active; parties; picnics; outside entertainment).
- 2) Arts and Crafts (applicable for the needs and interests of the residents).
- 3) Religious activities (examples: Bible study or discussion; Bible quizzes and games; hymn singing. These are in addition to routine religious services.)
- 4) Service activities for community or facility (examples: assist with community fund drives; projects for community or facility; helping to fold linen).
- 5) Intellectual and educational activities (examples: classes in writing, arithmetic, grooming, and social graces; cooking or food preparation; planned group discussion; quizzes and word games; newsletter).
- 6) Community activities (examples: residents' participation in community activities such as plays, clubs, eating out, church events, band concerts, and tours).
- h) Documentation of resident's response to programs shall be part of the resident's record.

Section 340.1710 Social Services

If the staff member designated to provide social services is not a registered or certified social worker, the facility shall have an effective arrangement with a registered or certified social worker to provide social service consultation.

Section 340.1720 Work Programs

- a) In-house facility work programs for individual residents shall be allowed only if oriented toward resident adjustment and therapeutic benefits.
 - 1) Documentation for each program shall include, but not be limited to, objectives, possible work assignment, duties, policies governing the program, agency involvement (where appropriate), and supervision.
 - 2) Residents involved in such programs shall meet all requirements of the Department for persons functioning in these positions.
 - 3) Residents shall not be used to replace employed staff.
 - 4) All such programs shall be in full compliance with all applicable regulations of both the State and Federal Departments of Labor. Any program found by the Department not to be in compliance with State and Federal Departments of Labor regulations shall be terminated immediately.
- b) The facility should cooperate with State and community agencies in assisting individual residents to avail themselves of specialized work activity programs, prevocational and work adjustment training,

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sheltered workshop programs, and other similar programs that are provided outside of the facility.

- c) Appropriate records shall be maintained for residents functioning in these programs in the facility or outside the facility. These shall show appropriateness of the program for the individual, resident's response to the program, and any other pertinent observations and shall become a part of the resident's record.

- d) A resident may refuse to perform labor for a facility. (Section 2-113 of the Act)

SUBPART G: RESIDENT RECORDS

Section 340.1800 Resident Record Requirements

- a) Each facility shall designate an employee to be responsible for completing, maintaining and preserving the medical records.

- b) Each facility shall have a medical record system that facilitates the retrieval of information regarding individual residents as demonstrated by the facility.

- c) The facility shall keep an active medical record for each resident. This resident record shall be kept current, complete, legible, and available at all times to those personnel authorized by the facility's policies and to the Department's representatives.

- d) Record entries shall meet the following requirements:

- 1) Record entries shall be made by the person providing or supervising the service or observing the occurrence that is being recorded.

- 2) Each record entry shall be written in ink or typed, shall be signed, dated, and shall include the profession or title of the person making the entry.

- e) An ongoing resident record, including progression toward and regression from established resident goals, shall be maintained.

- 1) The progress record shall indicate significant changes in the resident's condition. Any significant change shall be recorded upon occurrence by the staff person observing the change.

- 2) Recommendations and findings of direct service consultants, such as providers of social, dental, dietary or rehabilitation services, shall be included in the resident's progress record when the recommendations pertain to an individual resident.

- f) A medication administration record shall be maintained, which contains the date and time each medication is given, name of drug, dosage, and by whom administered. A medication administration record is not required for residents who have been approved to be fully responsible for their own medications in accordance with Section 340.1630(c).

- g) Treatment sheets shall be maintained recording all resident care procedures ordered by each resident's attending physician. This does not prohibit the use of universal progress notes.

- h) Discharge information shall be completed within 48 hours after the

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resident leaves the facility. Resident care staff shall record the date, time, condition of the resident, to whom released, and the resident's planned destination (home, another facility, undertaker). This information may be entered onto the admission record form. The discharge information shall also include reasons for discharge, diagnosis, individual habilitation plan, physical, pertinent medical and social histories, orders, and staff recommendations for immediate care to ensure the optimal continuity of care for the resident.

Section 340.1810 Content of Medical Records

- a) No later than the time of admission, the facility shall enter the following information, as applicable, onto the identification or admission sheet for each resident.

- 1) Name, sex, date of birth and Social Security Number;

- 2) Marital Status, and the name of spouse;

- 3) Date of admission to the facility;

- 4) Date of current admission to the facility;

- 5) State or country of birth;

- 6) Home address;

- 7) Religious affiliation;

- 8) Name, address and telephone number of any referring agency, State hospital, zone center or hospital from which the resident has been transferred;

- 9) Name and telephone number of the resident's personal physician;

- 10) Name and telephone number of the resident's representative or guardian, if any;

- 11) Name and telephone number of the resident's next of kin or responsible relative;

- 12) Language understood or spoken;

- 13) Race and origin;

- 14) Most recent occupation;

- 15) Whether the resident or the resident's spouse is a veteran;

- 16) Father's name and mother's name;

- 17) Name, address and telephone number of the resident's dentist; and

- 18) The diagnosis applicable at the time of admission.

- b) In addition to the information that is specified above, each resident's medical record shall contain the following:

- 1) Medical history and physical examination form that includes conditions for which medications have been prescribed, physician findings, all known diagnoses and restoration potential. This shall describe those known conditions that the medical and resident care staff should be apprised of regarding the resident. Examples of diagnoses and conditions that are to be included are allergies, epilepsy, diabetes and asthma.

- 2) A physician's order sheet that includes orders for all medications, treatments, therapy and rehabilitation services, diet, activities and special procedures or orders required for

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the safety and well-being of the resident.

- 3) Nurse's notes that describe the nursing care provided, observations and assessment of symptoms, reactions to treatments and medications, progression toward or regression from each resident's established goals, and changes in the resident's physical or emotional condition.
- 4) An ongoing record of notations describing significant observations or developments regarding each resident's condition and response to treatments and programs.
 - A) Physicians and other consultants who provide direct care or treatment to residents shall make notations at the time of each visit with a resident.
 - B) Significant observations or developments regarding resident responses to activity programs, social services, dietary services and work programs shall be recorded as they are noted. If no significant observations or developments are noted. If no significant observations or developments are noted for three months, an entry shall be made in the record of that fact.
 - C) Significant observations or developments regarding resident responses to nursing and personal care shall be recorded as they are noted. If no significant observations or developments are noted for a month, an entry shall be made in the record of that fact.
 - D) Significant behavior incidents, reactions to any family visits and contacts, attendance at programs.
 - 5) Any laboratory and x-ray reports ordered by the resident's physician.
 - 6) Documentation of visits to the resident by a physician and to the physician's office by the resident. The physician shall record, or dictate and sign, the results of such visits, such as changes in medication, observations, and recommendations made by the physician during the visits, in the record.
 - 7) All psychological testing and multidisciplinary evaluations regarding each resident.
 - 8) Any correspondence pertaining to the resident's program.
 - 9) Appropriate authorizations and consents.
 - 10) Upon admission from a hospital or State facility, a hospital summary sheet or transfer form that includes the hospital diagnosis and treatment, and a discharge summary. This transfer information, which may be included in the transfer agreement, shall be signed by the physician who attended the resident while in the hospital.

Section 340.1820 Records Pertaining to Resident's Property

- a) The facility shall maintain a record of any resident's belongings, including money, valuables and personal property, accepted by the facility for safekeeping. This record shall be initiated at the time

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of admission and shall be updated on an ongoing basis and made part of the resident's record.

- b) When purchases are made for a resident from the resident's personal monies, receipts shall be obtained and retained that verify the date, amount, and items purchased.
- c) A separate bookkeeping system shall be maintained by the facility, which accounts for all transactions affecting each resident's account. Each individual resident, or the individual resident's representative, shall have access to the record of that individual resident's account.

Section 340.1830 Retention, Transfer, and Inspection of Records

- a) Each facility shall have a policy regarding the retirement and destruction of medical records. This policy shall specify the time frame for retiring a resident's medical record, and the method to be used for record destruction at the end of the record retention period.
- b) Records of discharged residents shall be placed in an inactive file and retained as follows:
 - 1) Records for any resident who is discharged prior to being 18 years old shall be retained at least until the resident reaches the age of 23.
 - 2) Records of residents who are over 18 years old at the time of discharge shall be retained for a minimum of five years.
 - 3) After the death of a resident, the resident's record shall be retained for a minimum of five years.
 - 4) It is suggested that the administrator check with legal counsel regarding the advisability of retaining resident records for a longer period of time.
 - 5) If a facility ceases operation, procedures for handling resident records shall be developed by legal counsel.
- c) When a resident is transferred to another facility, the transferring facility shall send with the resident a reason for transfer, summary of treatment and results, laboratory findings, and orders for the immediate care of the resident. This information may be presented in a transfer form or an abstract of the resident's medical record.
- d) The facility shall retain other records required by these standards for a minimum of three years. Procedures to be followed in the event the facility ceases operation shall be developed by facility legal counsel.
- e) Each resident record is the property of the facility. The facility shall be responsible for securing resident record information against loss, defacement, tampering or use by unauthorized persons.
- f) Every resident, resident's guardian, or parent (if the resident is a minor) shall be permitted to inspect and copy all of the resident's clinical and other records concerning the resident's care and maintenance kept by the facility or by the resident's physician. (Section 2-104(d) of the Act)

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Section 340.1840 Confidentiality of Resident's Records

- a) All information contained in a resident's record, including any information contained in an automated data bank, shall be considered confidential. The facility shall permit the appropriate State and federal agencies (such as Illinois Departments of Public Aid, Public Health, Mental Health and Developmental Disabilities, and the U.S. Department of Health and Human Services and State and federal Department of Veterans' Affairs) to have access to resident records.
- b) The facility shall develop and implement written policies governing access to, duplication of, and dissemination of information from medical records.
- c) The facility shall obtain written consent of the resident, or the resident's guardian, prior to any release of any resident record information to persons not authorized to receive the information.

SUBPART H: FOOD SERVICE

Section 340.1900 Food Service Staff

- a) Each facility shall have a food service supervisor who is a dietitian or dietetic service supervisor, and who has been designated by the administration to be responsible for the total food service operation of the facility. The food service supervisor may assume cooking duties but only if these duties do not interfere with the responsibilities of management and supervision.
- b) If the food service supervisor is not a dietitian, the food service supervisor shall have frequent and regularly scheduled consultation from a dietitian. This consultation, given in the facility, shall include consultation and training in all food service procedures such as menu planning and review, food preparation, food storage, food service, safety, sanitation and management of therapeutic diets. Inservice education in appropriate subject areas shall be given to all facility staff.
- c) There shall be sufficient number of food service personnel employed and on duty to meet the dietary needs of all residents eating meals in the facility. Food service staff working hours shall be scheduled to meet the total dietary needs of the residents. All food service employees' time schedules and work assignments shall be posted in the kitchen. Dietary duties and job procedures shall be available in the food service for employees' information and use.
- d) Food service personnel shall be in good health and shall practice hygienic food handling techniques and good personal grooming.

Section 340.1910 Diet Orders

- a) Physicians shall write, in the medical record, a diet order for each resident indicating whether the resident is to have a general or a

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therapeutic diet. The diet shall be served as ordered.

- b) A diet order for each resident shall be sent in writing to the food service department for each new admission and for every subsequent change in diet for that resident as ordered by his physician. The diet order shall include, but is not limited to, the following information: name of resident; room and bed number; type of diet; consistency, if other than regular; date diet order is sent to dietary; name of physician ordering the diet; and the signature of the person transmitting the order to the food service department.
- c) The resident shall be observed to determine acceptance or lack of acceptance of the diet, and these observations shall be recorded in the resident's record.

Section 340.1920 Adequacy of Diet and Meal Pattern

- a) The daily food allowance shall meet the nutritional needs of each resident in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences and shall include at least:
 - 1) Two (2) servings of milk. One serving of milk is eight (8) ounces of Grade A whole or low fat pasteurized milk, and is equivalent, as follows:
 - A) One inch cube of cheddar type cheese>equals one-half cup milk.
 - B) Two-thirds cup cottage cheese equals one-half cup milk.
 - C) One cup ice cream equals one-half cup milk.
 - 2) Two (2) servings of edible meat or other good quality protein food. One serving is equivalent, as follows:
 - A) Three (3) ounces (excluding bone, fat and breading) of any cooked meat such as whole or ground beef, veal, pork or lamb; poultry; organ meats such as liver, heart, kidney; prepared luncheon meats.
 - B) Three (3) ounces cooked fish or shell fish or one-half cup canned fish.
 - C) Three (3) ounces of natural or processed cheese or three-fourths cup cottage cheese.
 - D) Three (3) eggs (minimum weight of twenty-one (21) ounces per dozen). Note: If one egg is served at breakfast, the protein food of good quality may be reduced from six (6) to five (5) ounces. If two (2) eggs are served at breakfast, the protein food of good quality may be reduced from six (6) to four (4) ounces.
 - E) One cup cooked dried peas or beans; six (6) tablespoons of peanut butter; or three (3) ounces of textured or soy bean entree not more than twice a week and provided eggs, cheese, milk or lean meat are served at the same meal.
 - F) Combinations of all above examples are acceptable, provided the minimum standard of six (6) ounces of a protein food of

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good quality is served daily and provided the combinations do not conflict with eye appeal or palatability.

- 3) Four (4) servings of vegetables or fruit. One serving is equivalent to one-half cup. Within these four (4) daily servings:

- A) One daily serving shall be of a good source of vitamin C or two (2) daily servings shall be of a fair source of vitamin C. A good source of vitamin C may include grapefruit, grapefruit juice, orange, orange juice, cantaloupe, strawberries, broccoli, brussels sprouts, green peppers or sweet red peppers. A fair source of vitamin C may include cabbage, collards, kale, kohlrabi, mustard greens, potatoes, spinach, tomatoes, tomato juice, turnip greens.
- B) Three (3) weekly servings shall be of a good source of vitamin A. A good source of vitamin A may include apricots, broccoli, cantaloupe, carrots, chard, collards, kale, persimmon, pumpkin, spinach, sweet potato, turnip greens, winter squash.

- 4) Four (4) servings of breads or cereal. One serving is equivalent to:

- A) One slice of bread
- B) One-half cup cooked cereal
- C) Three-fourths cup cold cereal

- 5) A food item may not be considered to fulfill more than one of the requirements listed in Section 340.1920(a)(1) through (4). For example: Cheese may be used to fulfill the milk or meat requirement, not both.

- 6) To ensure variety, when a food item is served twice in the same day, it may only be considered to fulfill one of the requirements of Section 340.1920(a)(1) through (4) once. Except that two (2) eggs may be counted as described in Section 340.1920(a)(2)(D) and that bread may be counted more than once. For example if cheese was served at the noon and evening meal, one serving of cheese would be considered to fulfill one of the requirements of Section 340.1920(a)(1) through (4), and the purpose of the other serving may be to meet Section 340.1920(a)(7).

- 7) Other food items shall be served to round out meals, satisfy individual appetites, improve flavor, and meet individual calorie needs.

- b) Each resident shall receive and the facility shall provide at least three meals daily, at regular times comparable to normal mealtimes in the community.

- 1) Breakfast: Fruit; Juice; Cereal; Meat (Optional, but three-four times per week preferable); Bread, Butter or Margarine; Milk; and Choice of additional beverage.

- 2) Main Meal (may be served noon or evening): Soup or Juice (Optional); Entree (quality protein); Potato or potato substitute; Vegetable or Salad; Dessert (preferably fruit unless

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fruit is served as a salad or will be served at other meal; Bread, Butter or Margarine; and Choice of beverage.

- 3) Lunch or Supper: Soup or Juice (Optional); Entree (quality protein); Potato or potato substitute (Optional if served at main meal); Vegetable or Salad; Dessert; Bread, Butter or Margarine; Milk; and Choice of additional beverage.

- c) There shall be no more than a fourteen (14) hour span between the usual commencement of the evening meal and the usual commencement of the morning meal.

- d) Snacks of nourishing quality shall be offered at bedtime when there is a time span of four (4) or more hours between the ending of the last meal and bedtime, or as otherwise indicated in the resident's plan or care.

- e) If a resident refuses food served, reasonable and nutritionally appropriate substitutes shall be served.

Section 340.1930 Therapeutic Diets

- a) A therapeutic diet is a diet that varies from the recommended nutritional requirements as specified in Section 340.1920.

- b) All diets or dietary restrictions shall be planned or approved by a dietitian.

- c) The kinds and variations of these prescribed therapeutic diets shall be available in the kitchen. If separate menus are not planned for each specific diet, diet information for each specific type shall be posted in the kitchen.

- d) All therapeutic diets, with the exception of liquid and medical soft, shall be reviewed at least every month. Liquid therapeutic diets shall be reviewed every forty-eight (48) hours. Medical soft diets shall be reviewed every three (3) weeks. This review shall be done by licensed nursing personnel or a qualified dietitian with recommendations to the attending physician.

- e) The facility shall have available and in use two (2) or more copies of a current diet manual. One copy shall be located in the kitchen for use by dietary personnel; others shall be located at each nurses' station for use by the physician when prescribing diets.

Section 340.1940 Menu Planning

- a) Menus, including menus for "sack" lunches and between meal or bedtime snacks, shall be planned at least one week in advance. Food sufficient to meet the nutritional needs of all the residents shall be prepared for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value and shall be recorded on the original menu, or in a notebook used for that purpose. If a notebook is used to document substitutions, it shall include the date of the substitution; the meal at which the substitution was made; the menu as originally written; and the menu as actually served.

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- b) The menu for the current week shall be dated and posted. Upon the request of the Department, sample menus shall be submitted for evaluation.
- c) Menus shall be different for the same day of consecutive weeks.
- d) All menus as actually served shall be kept on file for not less than thirty (30) days.
- e) Supplies of staple foods for a minimum of a one week period and of perishable foods for a minimum of a two (2) day period shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu.
- f) Records of all food purchased shall be kept on file for not less than thirty (30) days.

Section 340.1950 Food Preparation and Service

- a) Every facility shall comply with the Department's rules entitled "Food Service Sanitation" (77 Ill. Adm. Code 750).
- b) Foods shall be prepared by appropriate methods that will conserve their nutritive value and enhance their flavor and appearance. They shall be prepared according to standardized recipes, and a file of such recipes shall be available for the cook's use.
- c) Foods shall be attractively served at the proper temperatures and in a form to meet individual needs.
- d) Foods shall not be mixed for feeding so that residents may discriminate individual tastes.
- e) All residents shall be served in a dining room or multi-purpose room except for an individual with temporary illness, who is too ill, or for other valid reasons. Residents shall be in an upright position during meal service unless contraindicated by the resident's condition.

Section 340.1960 Kitchen Equipment, Utensils, and Supplies

- a) Each facility shall provide an adequate number of dishes, glassware, and silverware of a satisfactory type to serve all the residents in the facility at each meal.
- b) Each facility shall have available for use a sufficient supply of adaptive food service equipment necessary to meet the need of each resident.

SUBPART I: PHYSICAL PLANT SERVICES, FURNISHINGS,
EQUIPMENT, AND SUPPLIES

Section 340.2000 Maintenance

- a) Every facility shall have an effective written plan for maintenance, including sufficient staff, appropriate equipment, and adequate supplies.

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- b) Each facility shall:
 - 1) Maintain the building in good repair, safe and free of the following: cracks in floors, walls, or ceilings; peeling wallpaper or paint; warped or loose boards; warped, broken, loose, or cracked floor covering, such as tile or linoleum; loose handrails or railings; loose or broken window panes; and any other similar hazards.
 - 2) Maintain all electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems in safe, clean and functioning condition. This shall include regular inspections of these systems.
 - 3) Maintain all electrical cords and appliances in a safe and functioning condition.
 - 4) Maintain the interior and exterior finishes of the building as needed to keep it attractive, clean and safe (painting, washing, and other types of maintenance).
 - 5) Maintain all furniture and furnishings in a clean, attractive, and safely repaired condition.
 - 6) Maintain the grounds and other buildings on the grounds in a safe, sanitary, presentable condition, free of refuse and litter.
 - 7) Maintain the building and grounds free of any possible infestations of insects and rodents by eliminating sites of breeding and harborage inside and outside the building; eliminating sites of entry into the building with screens of not less than 16 mesh screen to the inch and repair of any breaks in construction.
 - 8) Maintain all plumbing fixtures and piping in good repair and properly functioning.
 - 9) Protect the potable water supply from contamination by providing and properly installing adequate backflow protection devices or providing adequate air gaps on all fixtures that may be subject to backflow or back siphonage.

Section 340.2010 Water Supply, Sewage Disposal and Plumbing

a) Water Supply

- 1) Each facility shall be served by water from a municipal public water supply when available.
- 2) When a municipal public water supply is not available, the water supply shall comply with the Department's rules entitled "Drinking Water Systems" (77 Ill. Adm. Code 900).
- 3) If water is supplied by a well that is not part of a municipal system, the well shall be constructed and maintained in accordance with the Department's rules entitled "Illinois Water Well Construction Code" (77 Ill. Adm. Code 920) and "Water Well Pump Installation Code" (77 Ill. Adm. Code 925).
- 4) Each water supply shall comply with all applicable State and local codes and ordinances.

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- 5) Each facility shall have a written agreement with a water company, dairy, or other water purveyor to provide an emergency supply of potable water for drinking and culinary purposes.
- b) Sewage Disposal
 - 1) All sewage and liquid wastes shall be discharged into a public sewage system when available.
 - 2) When a public sewage system is not available, sewage and liquid wastes shall be collected, treated, and disposed of in a private sewage disposal system. The design, construction, maintenance, and operation of the system shall comply with the Department's rules entitled "Private Sewage Disposal Code" (77 Ill. Adm. Code 905).
 - 3) All sewage disposal systems shall comply with all applicable State and local codes and ordinances.
- c) Plumbing
 - 1) Each plumbing system shall comply with the Department's rules entitled "Illinois Plumbing Code" (77 Ill. Adm. Code 890) effective at the time of construction or approved acceptance by the Department.
 - 2) All plumbing systems shall comply with all applicable State and local codes and ordinances.

Section 340.2020 Housekeeping

- a) Every facility shall have an effective plan for housekeeping including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall:
 - 1) Keep the building in a clean, safe, and orderly condition. This includes all rooms, corridors, attics, basements, and storage areas.
 - 2) Keep floors clean, as nonslip as possible, and free from tripping hazards including throw or scatter rugs.
 - 3) Control odors within the housekeeping staff's areas of responsibility by effective cleaning procedures and by the proper use of ventilation systems. Deodorants shall not be used to cover up persistent odors caused by unsanitary conditions or poor housekeeping practices.
- b) Attics, basements, stairways, and similar areas shall be kept free of accumulations of refuse, discarded furniture, old newspapers, boxes, discarded equipment, and other items.
- c) Bathtubs, shower stalls, and lavatories shall not be used for laundering, janitorial, or storage purposes.
- d) All cleaning compounds, insecticides, and all other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms.

Section 340.2030 Laundry Services

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- a) Every facility shall have an effective means of supplying an adequate amount of clean linen for operation, either through an in-house laundry or a contract with an outside service.
 - 1) An adequate supply of clean linen shall be defined as the three sets of sheets, draw sheets, and pillow cases required to provide for the residents' needs. Additional changes of linen may be required in consideration of the time involved for laundering and transporting soiled linens.
 - 2) If an in-house laundry service is provided, then the following conditions shall exist:
 - A) The laundry area shall be maintained and operated in a clean, safe and sanitary manner. No part of the laundry shall be used as a smoking or dining area.
 - B) Written operating procedures shall be developed, posted and implemented that provide for the handling, transport and storage of clean and soiled linens.
 - C) Laundry personnel must be in good health and practice good personal grooming. Employees must thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean, and after smoking, eating, drinking, using the toilet, and handling soiled linens.
 - D) Clean linen shall be protected from contamination during handling, transport, and storage.
 - E) Soiled linen shall be handled, transported, and stored in a manner that protects facility residents and personnel.
 - F) If supplies and equipment not directly connected with the operation of the laundry are stored in the laundry or its accessory storage and handling areas, they shall be protected from contamination by the soiled linens and shall not contribute to contamination of the clean linens.
 - b) If an outside laundry service is used, it shall comply with the requirements of in-house laundries and shall provide for protection of clean linens during transport back to the facility.
 - c) If the facility provides laundry service for residents' personal clothing, it must be handled, transported, and stored in a manner that will not allow contamination of clean linen or allow contamination by soiled linen. The facility shall assure that the personal clothing of each resident is returned to that individual resident after laundering.

Section 340.2040 Furnishings

- a) Each resident shall be provided, if he or she does not wish to provide his or her own, furniture and furnishings for his or her bedroom. These items shall be well constructed, of a satisfactory design, and appropriate to meet the needs of the resident. This shall include, but not be limited to:

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- 1) a bed of a size appropriate to the resident;
 - 2) a clean, firm, comfortable mattress and pillow;
 - 3) accessible in-room storage for folded clothing, such as a dresser or chest of drawers;
 - 4) accessible in-room storage for hanging clothes, such as a closet or wardrobe;
 - 5) an area to hang the resident's towel and washcloth;
 - 6) a reading light at an in-room location convenient to the resident, such as at bedside or near a chair;
 - 7) a location to keep nursing and personal care items that are appropriate for in-room storage, such as a bedside cabinet;
 - 8) comfortable in-room seating.
- b) *The facility administrator shall ensure that married residents residing in the same facility be allowed to reside in the same room within the facility unless there is no room available in the facility or it is deemed medically inadvisable by the resident's attending physician and so documented in the resident's medical records. (Section 2-108(e) of the Act) A double bed shall be provided for married couples if they request this arrangement and there are no medical contraindications.*
- c) There shall be additional pillows available to satisfactorily meet the needs of the residents.
 - d) *A resident shall be permitted to retain and use or wear his personal property in his immediate living quarters, unless deemed medically inappropriate by a physician and so documented in the resident's clinical record. (Section 2-103 of the Act)*
 - e) *The facility shall provide adequate storage space for the personal property of the resident. (Section 2-103 of the Act)*
 - f) *The facility shall provide a means of safeguarding small items of value for its residents in their rooms or in any other part of the facility so long as the residents have daily access to such valuables. (Section 2-103 of the Act)*
 - g) Each bedroom exterior window shall have a device (e.g., blinds, curtains, window shades) to ensure privacy and light control.
 - h) There shall be at least one privacy screen available in the facility for emergency use when resident privacy is needed.
 - i) There shall be no traffic through a resident's room to reach any other area of the building.
 - j) Residents over the age of six years occupying the same bedroom shall be of the same sex unless otherwise individually approved by the interdisciplinary team.
 - k) Each bedroom shall be provided with a mirror, unless there is a mirror in a bathroom opening into this bedroom. Each lavatory shall be provided with a mirror.
 - l) Each living room for resident use shall be provided with an adequate number of reading lamps, tables, and chairs or settees. These furnishings shall be well constructed and of satisfactory design to meet the needs of the residents.

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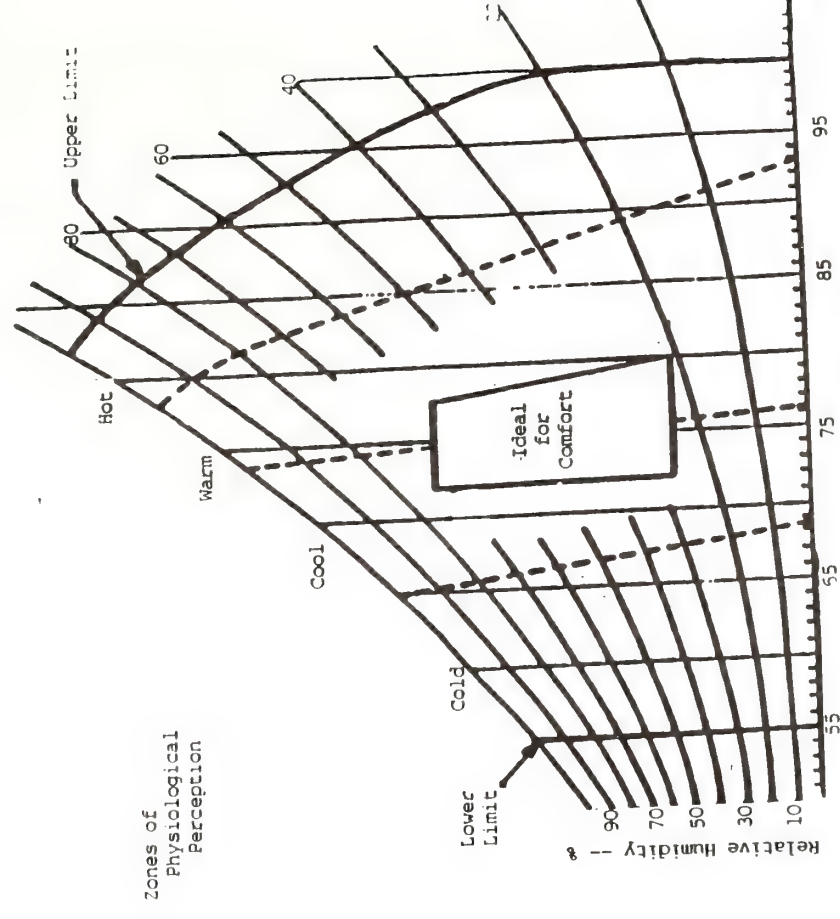
- m) Dining room furnishings shall be provided for each resident that are well constructed, comfortable, in good repair, and of satisfactory design for the residents. There shall be a sufficient number of tables, of a type that can be used by wheelchair residents, to accommodate all such residents in the facility. A sufficient number of tables that can be rolled over the resident's bed or that can be placed next to the bed shall be provided for residents who cannot, or do not, eat in the dining room or area.
- n) Office spaces, nurses' stations, treatment rooms, and other areas shall be satisfactorily furnished with desks, chairs, lamps, cabinets, benches, work tables, and other furnishings essential to the proper use of the area.

Section 340.2050 Equipment and Supplies

- a) There shall be an adequate supply of nursing equipment to meet the needs of the residents.
- b) There shall be a sufficient quantity of resident care equipment of satisfactory design and in good condition to meet each resident's needs.
- c) A sufficient quantity of suction machines shall be provided to meet the needs of all residents who need suctioning.
- d) According to the resident's needs, the facility shall assist the resident in obtaining special equipment for an individual resident's exclusive use.
- e) There shall be a first-aid kit or emergency box in every facility. This shall contain bandages, sterile gauze dressing, bandage scissors, tape, sling, burn ointment, and other equipment deemed necessary by the advisory physician or the medical advisory committee.
- f) Every facility shall follow an acceptable plan to provide for sterile equipment and supplies, such as needles, syringes, catheters, and dressings, such as:
 - 1) Use of an autoclave located in a central sterilization area, clean utility area, or nurses' station.
 - 2) Use of individually wrapped sterile dressing, disposable syringes, needles, catheters, and gloves, which shall be disposed of after a single use.
 - 3) Formal plan with another facility for the autoclaving of equipment and supplies.
 - 4) Other alternative methods when approved on an individual basis in writing from the Department based on a written request from the facility, giving in detail the method proposed to be used and which method meets equivalent criteria for proper sterilization for these items to be sterilized.
- g) Every facility shall sanitize bed pans, urinals, wash basins, emesis basins, enema equipment, and similar patient care utensils as follows:
 - 1) Individual bedpans, urinals, wash basins, and similar equipment shall be washed and rinsed after each use, and be sanitized at

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Section 340. TABLE A Disaster Preparedness Parameters -- Relative Humidity and Temperature



Temperatures -- Degrees Fahrenheit
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- least weekly. If individual equipment is not provided, the equipment shall be washed, rinsed, and sanitized after each use.
- 2) Utensils shall be pre-flushed prior to washing. Utensils shall be washed in a hot detergent solution that is maintained clean. After washing, utensils shall be rinsed free of detergents with clean water.
 - 3) Utensils shall be sanitized, either mechanically or manually, through the use of steam, hot water, or chemicals approved by the U.S. Environmental Protection Agency, formulated for the sanitization of patient care utensils, and shall be used in accordance with label instructions.
 - 4) Patient care utensil sanitization shall be completed in the soiled utility room.

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Section 340.TABLE B Guidelines for the Use of Various Drugs

A. Long-Acting Benzodiazepine Drugs

Long-acting benzodiazepine drugs should not be used in residents unless an attempt with a shorter-acting drug (i.e., those listed under subsection B. Benzodiazepine or Other Anxiolytic/Sedative Drugs, and under subsection C. Drugs Used for Sleep Induction) has failed. After an attempt with a shorter-acting benzodiazepine drug has failed, a long-acting benzodiazepine drug should be used only if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Its use results in maintenance or improvement in the resident's functional status;
3. Daily use is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful; and
4. Its use is less than, or equal to, the following listed total daily doses unless higher doses (as evidenced by the resident's response and/or the resident's clinical record) are necessary for the maintenance of, or improvement in, the resident's functional status.

EXAMPLES OF LONG-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral Dosage
Flurazepam	(Dalmane)	15mg
Chlordiazepoxide	(Librium)	20mg
Clorazepate	(Tranxene)	15mg
Prazepam	(Centrax)	15mg
Diazepam	(Valium)	5mg
Clonazepam	(Klonopin)	1.5mg
Quazepam	(Doral)	7.5mg

NOTES: When diazepam is used for neuromuscular syndromes (e.g., cerebral palsy, tardive dyskinesia or seizure disorders), this guideline does not apply.

When long-acting benzodiazepine drugs are being used to withdraw residents from short-acting benzodiazepine drugs, this guideline does not apply.

When clonazepam is used in bi-polar disorders, management of tardive dyskinesia, nocturnal myoclonus or seizure disorders, this guideline does not apply.

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The daily doses listed under Long-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is "clinically contraindicated."

B. Benzodiazepine or other Anxiolytic/Sedative Drugs

Use of the Anxiolytic/Sedative drugs for purposes other than sleep induction should only occur if:

1. Evidence exists that other possible reasons for the resident's distress have been considered and ruled out;
2. Use results in a maintenance or improvement in the resident's functional status;
3. Daily use (at any dose) is less than four continuous months unless an attempt at a gradual dose reduction is unsuccessful;
4. Use is for one of the following indications as defined by the Diagnostic and Statistical Manual of Mental Disorders (third edition - revised) or subsequent editions:

Generalized anxiety disorder;
Organic mental syndromes (including dementia) with associated agitated states which are quantitatively and objectively documented and which constitute sources of distress or dysfunction to the resident or represent a danger to the resident or others;
Panic disorder;
Symptomatic anxiety that occurs in residents with another diagnosed psychiatric disorder (e.g., depression, adjustment disorder); and

5. Use is equal to or less than the following listed total daily doses, unless higher doses (as evidenced by the resident response and/or the resident's clinical record) are necessary for the improvement or maintenance in the resident's functional status.

EXAMPLES OF SHORT-ACTING BENZODIAZEPINES

Generic	Brand	Daily Oral Dosage
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Lorazepam	(Ativan)	2mg
Oxazepam	(Serax)	30mg
Alprazolam	(Xanax)	0.75mg
Halazepam	(Paxipam)	40mg

EXAMPLES OF OTHER ANXIOLYTIC AND SEDATIVE DRUGS

Generic	Brand	Daily Oral Dosage
Diphenhydramine	(Benadryl)	50mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	750mg

NOTES: The daily doses listed under Short-Acting Benzodiazepines are doses (usually administered in divided doses) for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

For drugs in this category, a gradual dose reduction should be attempted at least twice within one year before one can conclude that a gradual dose reduction is "clinically contraindicated."

Diphenhydramine, hydroxyzine and chloral hydrate are not necessarily drugs of choice for treatment of anxiety disorders. They are only listed here in the event of their potential use.

C. Drugs Used for Sleep Induction

Drugs used for sleep induction should only be used if:

1. Evidence exists that other possible reasons for insomnia (e.g., depression, pain, noise, light, caffeine) have been ruled out;
2. The use of a drug to induce sleep results in the maintenance or improvement of the resident's functional status;
3. Daily use of the drug is less than ten continuous days unless an attempt at a gradual dose reduction is unsuccessful;
4. The dose of the drug is equal to or less than the following listed doses unless higher doses (as evidenced by the resident response and/or the resident's clinical record) are necessary for maintenance or improvement in the resident's functional status.

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EXAMPLES OF HYPNOTIC DRUGS

Generic	Brand	Oral Dosage
Tenazepam	(Restoril)	15mg
Triazolam	(Halcion)	0.125mg
Lorazepam	(Ativan)	1mg
Oxazepam	(Serax)	15mg
Alprazolam	(Xanax)	0.25mg
Halazepam	(Paxipam)	20mg
Diphenhydramine	(Benadryl)	25mg
Hydroxyzine	(Atarax, Vistaril)	50mg
Chloral Hydrate	(Many Brands)	500mg

NOTES: Diminished sleep in the elderly is not necessarily pathological.

The doses listed are doses for "geriatric" or "elderly" residents. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it was necessary for the maintenance or improvement in the resident's functional status.

Diphenhydramine, hydroxyzine, and chloral hydrate are not necessarily drugs of choice for sleep disorders. They are listed here only in the event of their potential use.

For drugs in this category, a gradual dose reduction should be attempted at least three times within six months before one can conclude that a gradual dose reduction is "clinically contraindicated."

D. Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs

The initiation of the following hypnotic/sedative/anxiolytic drugs should not occur in any dose for any resident. (See Notes for exceptions.) Residents currently using these drugs or residents admitted to the facility while using these drugs should receive gradual dose reductions as part of a plan to eliminate or modify the symptoms for which they are prescribed. A gradual dose reduction should be attempted at least twice within one year before one can conclude that the gradual dose reduction is clinically contraindicated. Newly admitted residents using these drugs may have a period of adjustment before a gradual dose reduction is attempted.

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(Caution: The Rapid withdrawal of these drugs might result in severe physiological withdrawal symptoms.)

EXAMPLES OF BARBITURATES

Generic	Brand
Amobarbital	(Amytal)
Amobarbital-Secobarbital	(Tuinal)
Aprobarbital	(Alurate)
Butabarbital	(Butisol)
Pentobarbital	(Nembutal)
Phenobarbital	(Many Brands)
Barbiturates with other drugs	(e.g., Fiorinal)

EXAMPLES OF MISCELLANEOUS HYPNOTIC/SEDATIVE/ANXIOLYTICS

Generic	Brand
Ethchloralvynol	(Placidyl)
Meprobamate	(Equinal, Miltown)
Glutethimide	(Doriden)
Methprylon	(Noludar)
Paraldehyde	(Many Brands)

NOTES: Amobarbital is excepted from this Guideline when used as a single dose sedative for dental or medical procedures.

Phenobarbital is excepted from this Guideline when used in the treatment of seizure disorders.

When Miscellaneous Hypnotic/Sedative/Anxiolytic Drugs are used outside these Guidelines, they may be unnecessary drugs as a result of inadequate indications for use.

E. Antipsychotic Drugs

The following examples of antipsychotic drugs should not be used in excess of the listed doses for residents with organic mental syndromes (e.g., dementia, delirium) unless higher doses (as evidenced by the resident's response or the resident's clinical record) are necessary to maintain or improve the resident's functional status.

EXAMPLES OF ANTIPSYCHOTIC DRUGS FOR RESIDENTS WITH ORGANIC MENTAL SYNDROMES

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Generic	Brand	Daily Oral Dosage
Chlorpromazine	(Thorazine)	75 mg
Promazine	(Sparine)	150 mg
Triflupromazine	(Vesprin)	20 mg
Thioridazine	(Mellaril)	75 mg
Mesoridazine	(Serentil)	25 mg
Acetophenazine	(Tindal)	20 mg
Perphenazine	(Trilafon)	8 mg
Fluphenazine	(Prolixin, Permitil)	4 mg
Trifluoperazine	(Stelazine)	8 mg
Chlorprothixene	(Taractan)	75 mg
Thiothixene	(Navane)	7 mg
Haloperidol	(Haldol)	4 mg
Molindone	(Moban)	10 mg
Loxapine	(Loxitane)	10 mg
Clozapine	(Clozaril)	50 mg
Prochlorperazine	(Compazine)	10 mg

NOTES: The doses listed are daily doses (usually administered in divided doses) for residents with organic mental syndromes. The facility is encouraged to initiate therapy with lower doses and when necessary only gradually increase doses. The facility may exceed these doses if it provides evidence to show why it is necessary for the maintenance or improvement in the resident's functional status.

The "specific conditions" for use of antipsychotic drugs are listed under this Guideline, item G.

The dose of prochlorperazine may be exceeded for short term (seven day) treatment of nausea and vomiting.

When antipsychotic drugs are used outside these Guidelines, they may be deemed unnecessary drugs as a result of excessive dose.

F. Monitoring for Antipsychotic Drug Side Effects

The facility assures that residents who are undergoing antipsychotic drug therapy receive adequate monitoring for significant side effects of such therapy with emphasis on the following:

1. Tardive dyskinesia;
2. Postural (orthostatic) hypotension;
3. Cognitive/behavior impairment;

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4. Akathisia; and
5. Parkinsonism.

When antipsychotic drugs are used without monitoring for these side effects, they may be unnecessary drugs because of inadequate monitoring.

G. Use of Antipsychotic Drugs

Antipsychotic drugs should not be used unless the clinical record documents that the resident has one or more of the following "specific conditions":

1. Schizophrenia;
2. Schizo-affective disorder;
3. Delusional disorder;
4. Psychotic mood disorders (including mania and depression with psychotic features);
5. Acute psychotic episodes;
6. Brief reactive psychosis;
7. Schizophreniform disorder;
8. Atypical psychosis;
9. Tourette's disorder;
10. Huntington's disease;
11. Organic mental syndromes (including dementia and delirium) with associated psychotic and/or agitated behaviors:

- a. Which have been quantitatively (number of episodes) and objectively (e.g., biting, kicking, scratching) documented;
- b. Which are not caused by preventable reasons; and
- c. Which are causing the resident to:

- present a danger to her/himself or to others,
- Continuously cry, scream, yell, or pace if these specific behaviors cause an impairment in functional capacity, or
- Experience psychotic symptoms (hallucinations, paranoia, delusions) not exhibited as dangerous behaviors or as crying, screaming, yelling, or pacing but which cause the resident distress or impairment in functional capacity; or

12. Short term (7 days) symptomatic treatment of hiccups, nausea, vomiting or pruritus.

Antipsychotics should not be used if one or more of the following is/are the only indication:

1. Wandering,
2. Poor self care,
3. Restlessness,
4. Impaired memory,
5. Anxiety,

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6. Depression (without psychotic features),
7. Insomnia,
8. Unsociability,
9. Indifference to surroundings,
10. Fidgeting,
11. Nervousness,
12. Uncooperativeness, or
13. Agitated behaviors which do not represent danger to the resident or others.

As needed or P.R.N. antipsychotic drugs should only be used when the resident has a "specific condition" for which antipsychotic drugs are indicated (that is, points one through twelve above, and one of the following circumstances exists:

1. The as needed or P.R.N. dose is being used to titrate the resident's total daily dose up to achieve symptom relief, or down to avoid side effects, or down to effect a gradual dose reduction, or
2. The as needed or P.R.N. dose is being used to manage unexpected harmful behaviors that cannot be managed without antipsychotic drugs. Under this circumstance, a P.R.N. antipsychotic drug may be used no more than twice in any seven day period without an assessment of the cause for the resident's behavioral symptoms, and the development of a plan of care designed to attempt to reduce or eliminate the cause(s) for the harmful behavior.

H. Antipsychotic Drug Gradual Dose Reduction

Residents must, unless clinically contraindicated, have gradual dose reductions of the antipsychotic drug. The gradual dose reduction should be under close supervision. If the gradual dose reduction is causing an adverse effect on the resident and the gradual dose reduction is discontinued, documentation of this decision and the reasons for it should be included in the clinical record. Gradual dose reductions consist of tapering the resident's daily dose to determine if the resident's symptoms can be controlled by a lower dose or to determine if the dose can be eliminated altogether.

"Behavioral interventions" means modification of the resident's behavior or the resident's environment, including staff approaches to care, to the largest degree possible to accommodate the resident's behavioral symptoms.

"Clinically contraindicated" means that a resident with a "specific condition" (as listed in these Guidelines under subsection G, 1-11) who has had a history of recurrence of psychotic symptoms (e.g., delusions, hallucinations) which have been stabilized with a

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maintenance dose of an antipsychotic drug without incurring significant side effects (e.g., tardive dyskinesia) should not receive gradual dose reductions. In residents with organic mental syndromes (e.g., dementia, delirium), "clinically contraindicated" means that a gradual dose reduction has been attempted twice in one year and that attempt resulted in the return of symptoms for which the drug was prescribed to a degree that a cessation in the gradual dose reduction, or a return to previous dose levels was necessary.

I. Exceptions to These Guidelines

The facility shall have the opportunity to provide a rationale for the use of drugs prescribed outside these Guidelines. The facility may not justify the use of a drug prescribed outside these Guidelines solely on the basis of "the doctor ordered it." The rationale must be based on sound risk-benefit analysis of the resident's problem and potential adverse effects of the drug.

The unnecessary drug criterion of "adequate indications for use" does not simply mean that the physician's order must include a reason for using the drug (although such order writing is encouraged). It means that the resident lacks a valid clinical reason for use of the drug as evidenced by the evaluation of some, but not necessarily all, of the following: resident assessment, plan of care, reports of significant change, progress notes, laboratory reports, professional consults, drug orders, observation and interview of the resident, and other information.

In determining whether an antipsychotic drug is without a "specific condition" or that "gradual dose reduction and behavioral interventions" have not been performed, the facility shall justify why using the drug outside these Guidelines is in the best interest of the resident.

Examples of evidence that would support a justification of why a drug is being used outside these Guidelines but in the best interests of the resident may include, but are not limited to:

1. A physician's note indicating, for example, that the dosage, duration, indication, and monitoring are clinically appropriate, and the reasons why they are clinically appropriate; this note should demonstrate that the physician has carefully considered the risk/benefit to the resident in using drugs outside these Guidelines;
2. A medical or psychiatric consultation or evaluation (e.g., Geriatric Depression Scale) that confirms the physician's judgment that use of a drug outside those Guidelines is in the best interest of the resident;
3. Physician, nursing, or other health professional documentation

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- indicating that the resident is being monitored for adverse consequences or complications of the drug therapy;
4. Documentation confirming that previous attempts at dosage reduction have been unsuccessful;
 5. Documentation (such as MDS documentation) showing resident's subjective or objective improvement, or maintenance of function while taking the medication;
 6. Documentation showing that a resident's decline or deterioration is evaluated by the interdisciplinary team to determine whether a particular drug, or a particular dose, or duration of therapy, may be the cause;
 7. Documentation showing why the resident's age, weight, or other factors would require a unique drug dose or drug duration, indication, monitoring;
 8. Other evidence which may be appropriate.

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers:
100.2150
New Section
- 4) Statutory Authority: 35 ILCS 201(j)
- 5) Effective Date of Amendment(s): March 31, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 31, 1995
- 9) Notice of Proposal Published in Illinois Register:
Issue #44, 11/4/94, 18 Ill. Reg. 16277
- 10) Has JCAR issued a Statement of Objections to these Amendments?
No
- 11) Differences between proposal and final version: The following changes were made as a result of the Joint Committee Review:
- 1) The date "June 1" was changed to "June 2" in the main source note.
 - 2) Section 100.2150(b) - Line 254 replaced "210" with "201".
 - 3) Section 100.2150(c)(1) - Line 262- a comma was added after the word "Act."
 - 4) Section 100.2150(c)(2)(B) - Line 286 - a comma was added after the word "to."
 - 5) Section 100.2150(d) - Line 345 - a period was added.
 - 6) Section 100.2150(d)(1)(C) - Line 357 - the comma at the end of the line was changed to a period.
 - 7) Section 100.2150(d)(2)(C) - Line 390 - the word "a" was replaced with the word "an."
- 12) Have all the changes agreed upon by the agency and JCAR been made as

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indicated in the agreement letter issued by JCAR? Yes

- 13) Will this amendment replace an emergency amendment currently in effect? No

- 14) Are there any amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
100.2470	Amendment	6/24/94, 18 Ill. Reg. 9377

- 15) Summary and Purpose of Amendment(s): This rulemaking proposes New Section 100.2150 to adopt rules on the Training Expense Credit. The Training Expense Credit is a credit against the tax imposed under IITA Sections 201(a) and (b) for all amounts paid or accrued, on behalf of all persons employed by the taxpayer in Illinois, or Illinois residents employed outside of Illinois by a taxpayer, for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields which were deducted from gross income in the computation of taxable income. The credit is 1.6% of eligible training expenses.

This rulemaking will be given prospective effect by the Department. As a result of the comments received on the draft rules, the Department has developed a proposed rule that is significantly broader with respect to scope of the credit than previous Department positions articulated in Department letter rulings over the years. While this broader definition of the amounts eligible for the credit is supported by the statute, so too is the current more restrictive definition of eligible amounts as articulated by Department rulings. We have concluded that to give the rule other than prospective effect would be contrary to the spirit of Sections 5-10(c) and 5-35(b) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10 and 100/5-35].

- 16) Information and questions regarding this adopted amendment shall be directed to:

Keith Staats
Senior Counsel - Income Tax
Office of General Counsel
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000
100.2050

Introduction
Net Income (IITA Section 202)

SUBPART B: CREDITS

Section
100.2100

Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))

100.2150

Training Expense Credit (IITA 201(j))

100.2101

Replacement Tax Investment Credit (IITA 201(e))

100.2110

Investment Credit; Enterprise Zone (IITA 201(f))

100.2120

Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))

100.2130

Investment Credit; High Impact Business (IITA 201(h))

100.2140

Credit Against Income Tax for Replacement Tax (IITA 201(i))

100.2160

Research and Development Credit (IITA 201(k))

100.2170

Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)

100.2180

Credit for Residential Real Property Taxes (IITA 208)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section
100.2200

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope

100.2210

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions

100.2220

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members

100.2230

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

100.2240

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary

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Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER
DECEMBER 31, 1986

Section
100.2300

Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986

100.2310

Computation of the Illinois Net Loss Deduction

100.2320

Determination of the Amount of Illinois Net Loss Carryovers

100.2330

Illinois Net Loss Carrybacks and Net Loss Carryovers

100.2340

Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

100.2350

Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,
CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2470

Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2590

Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section
100.2680

Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF
BASE INCOME

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Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other than Residents (IITA Section 304) - In General
100.3320 Business Income of Persons Other than Residents (IITA Section 304) - Apportionment
100.3330 Business Income of Persons Other than Residents (IITA Section 304) - Allocation
100.3340 Business Income of Persons Other than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section
100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)

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100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)

SUBPART O: COMPOSITE RETURNS

Section
100.5100 Composite Returns: Eligibility
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credit for Resident Individuals
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section
100.5200 Election to File a Combined Return
100.5210 Procedure for Making the Election
100.5220 Designated Agent for the Members
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100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5270 Computation of Combined Income and Tax
100.5280 Definitions and Miscellaneous Provisions Relating to Combined Returns

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7040 Employer Registration (IITA Section 701)
100.7050 Computation of Amount Withheld (IITA Section 701)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)

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100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

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100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns of Income Withheld from Wages (IITA Section 704)
100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)
100.7320 Time for Filing Returns (IITA Section 704)
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
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SUBPART U: COLLECTION AUTHORITY

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100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

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SUBPART W: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

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SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section
100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

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100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings

SUBPART AA: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents

TABLE A Example of Unitary Business Apportionment

TABLE B Example of Unitary Business Apportionment for Groups which Include Members Using Three-Factor and Single-Factor Formulas

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AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5324.

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SUBPART B: CREDITS

Section 100.2150 Training Expense Credit (IITA 201(j))

- a) A taxpayer shall be allowed a credit against the tax imposed by IITA Sections 201(a) and (b) for all amounts paid or accrued, on behalf of all persons employed by the taxpayer in Illinois, or Illinois residents employed outside of Illinois by a taxpayer, for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields, which were deducted from gross income

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- in the computation of taxable income (IITA Section 201(j)).
b) The credit against the tax imposed by IITA Sections 201(a) and (b) shall be 1.6% of eligible training expenses (IITA Section 201(j)).

c) All amounts paid for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields are eligible for the credit. No particular fields of employment are presumptively eligible or ineligible for the credit.

- 1) The Training Expense Credit was originally enacted into law as a training expense deduction by P.A. 83-650, the Prairie State 2000 Authority Act, and was later converted into the current Training Expense Credit by P.A. 84-1405. The Illinois General Assembly found that there existed a large surplus of workers throughout the State who are ready, willing and able to work but who lack the appropriate skills to perform the specialized tasks for modern business and industry. The General Assembly found that a substantial impediment to attracting new businesses and encouraging the modernization of existing businesses has been the shortage of workers who can perform the specialized tasks required by the new technologies of modern business. [20 ILCS 4020/2]

- 2) The credit is for the amounts paid or accrued for educational or vocational training in semi-technical or technical or semi-skilled or skilled fields.

A) The terms "semi-technical or technical fields or semi-skilled or skilled fields" do not refer to any particular occupation. This statutory language authorizes the credit for the costs of training of an employee to improve that employee's job skills within the scope of his or her employment.

- B) The credit will be authorized for the costs of job-linked training that offers special skills for career advancement or that is preparatory for, and leads to, a job with definite career potential.

C) The credit will be authorized for amounts expended for training necessary to implement Total Quality Management or improvement systems within the workplace.

- D) The credit will be authorized for training related to machinery or equipment.

E) The credit will be authorized for job-linked basic skills, which may include English as a second language and remedial training, necessary for employees to function effectively and safely in the workplace, or as a prerequisite for other training.

EXAMPLES: Training of a machine operator in skills necessary to operate a computer-assisted manufacturing machine would qualify for the credit. Training of the employees of a retailer in the operation of a cash register system that is designed to aid the retailer by resulting in

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faster sales and greater inventory control because of centralized linkage of the system to the retailer's headquarters would, assuming all other requirements are met, qualify for the credit. A course in how to supervise employees required of supervisors because of the installation of a computer system at the business with terminals in the homes of that supervisor's subordinates that allows those subordinates to work from their homes would qualify for the credit.

F) Training does not have to occur in a classroom. Training may be given by an employer to his or her employees, an employer may contract with a third party to provide the training, or an employer may reimburse an employee for the costs of training purchased by an employee. Eligible training may include self-study courses. Self-study courses will qualify if the employer demonstrates that the self-study coursework is training in semi-technical or technical or semi-skilled or skilled fields. Self-study training must be contrasted with the type "down time" reading which, as stated in subsection (d)(2)(B), below, does not qualify for the credit.

G) Training does not have to occur on the premises of the employer. Training does not have to occur in the State of Illinois. However, in order to claim costs of employee travel and lodging, an employer must document that the costs of travel were related to the training and were deducted in determining the employer's federal taxable income.

H) A training expense that would otherwise not qualify for the credit will not be deemed to qualify for the credit because of a designation of an employee as a probationary employee, a trainee, or a similar designation of that nature.

d) Only amounts expended for eligible training will qualify as eligible training expenses. Such costs may or may not constitute "direct expenses" as that term is used in normal accounting parlance. Capitalized costs will not qualify for the credit. However, as noted below, depreciation expenses associated with capital expenditures may qualify for the credit. The term "compensation" used in this Section is defined in IITA Section 1501(a)(3).

1) The following costs qualify as eligible training expenses:

- A) Compensation of employees for time spent in training others in in-house training will qualify as eligible training expenses, but the compensation must be prorated based on the amount of time actually spent in conducting the training.
- B) Compensation of an employee for time spent in preparing for in-house training as or for an instructor will qualify because such compensation is an expense of the training.
- C) Compensation of an employee for time spent in training will qualify for the credit.

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D) The cost of materials (i.e., slides, hand-outs, etc.) for in-house training will qualify for the credit because such costs are expenses of the training.

E) Pro-rata rent of a training facility is an expense eligible for the credit. Similarly, depreciation expenses for a training facility owned by a taxpayer or for equipment used for training are eligible expenses.

F) Costs of registration (including allocable wages of employees performing the registration) with state, federal or industry authorities may be eligible expenses, if such costs are related to eligible training.

G) Tuition reimbursement is an eligible expense provided that the tuition amounts were deducted in determining the employer's federal taxable income.

H) Costs of travel and lodging for eligible training provided that the costs were deducted in determining the employer's federal taxable income.

2) The following costs do not qualify as eligible training expenses:

A) The cost of the training facility and equipment is not an eligible expense. Capital costs are not eligible for the credit. However, as noted above, depreciation expense is eligible.

B) Compensation of an employee for "down time" spent informally training (i.e., a mechanic with no machinery on which to work reading about new equipment, or a mechanic reading about specifications of equipment never before encountered) is not an eligible expense.

C) Compensation of an employee for time spent supervising another employee is not an eligible expense. For instance, a supervisor spending an hour a day reviewing and discussing a new employee's progress and planning the new employee's future work schedule would not be an eligible expense.

D) Cost of a meal (breakfast or lunch) provided in the course of a brief training session is not an eligible expense. Similarly, the cost of meals provided to an employee during an all-day training session is not an eligible expense.

3) Employers must maintain records sufficient to document that the training is eligible training. Employers must maintain records that document the amounts expended for eligible training expenses. An employer may maintain documentation as required for the Industrial Training Program of the Illinois Department of Commerce and Community Affairs (see 56 Ill. Adm. Code 2650.120), or as maintained by employers in compliance with the requirements of the Illinois Secretary of State's Workplace Literacy Program (see 23 Ill. Adm. Code 3040.220 and 3040.240) for purposes of documentation for the Training Expense Credit. Employers may claim the credit based upon average or standard costs of training each employee. The documentation of amounts expended for

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eligible training expenses, or documentation maintained to claim the credit based upon average or standard costs, must be sufficient to demonstrate that the training for which the credit is claimed is on behalf of persons employed by the taxpayer in Illinois, or Illinois residents employed outside of Illinois by the taxpayer, the training qualifies for the credit under the standards of subsection (b) of this Section above, and the expenditures are eligible training expenses under the standards of subsection (d)(1) above. In the event an employer claims the credit based upon average or standard costs, this documentation must include detailed information concerning the methodology utilized in determining the average or standard costs.

e) For purposes of the training expense credit and this rule, the term "persons employed by the taxpayer in Illinois" shall include both employees whose compensation is subject to withholding under IITA Section 701 (including employees who are exempt from withholding pursuant to IITA Section 701(d)). A person is employed in Illinois by the taxpayer if that person has "compensation paid in this State" as that term is defined in IITA Section 304(a)(2)(B). Sole proprietors, partners of partnerships, shareholders of corporations, beneficiaries of trusts or estates, or other individuals who own an interest in the employer are not employees for purposes of this credit, unless in the case of shareholders or beneficiaries, they are able to demonstrate that, separate and apart from their ownership status, they are also employees of the concern.

f) For partners and shareholders of subchapter S corporations, there shall be allowed a credit under IITA Section 201(j) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code (IITA Section 201(j)).

g) Any credit allowed under this subsection which is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is computed until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first (IITA Section 201(j)).

(Source: Added at 19 Ill. Reg. 5824, effective
MAR 3 1 1995)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- | | |
|--------------------------------|-------------------------|
| 1) <u>Heading of the Part:</u> | Background Checks |
| 2) <u>Code Citation:</u> | 89 Ill. Adm. Code 385 |
| 3) <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 385.10 | Amend |
| 385.20 | Amend |
| 385.30 | New |
| 385.40 | New |
| 385.50 | Renumber, Amend |
| 385.60 | Renumber, Amend |
| 385.70 | Renumber, Amend |
| 385.80 | New |
| 385.90 | Renumber, Amend |
| 385.100 | Renumber |
| 385.Appendix A | New |

4) Date Notices of Proposed Amendments Published in the Illinois Register:
June 3, 1994, 18 Ill. Reg. 8219

5) Reason for Withdrawal: Proposed amendments to 89 Ill. Adm. Code 385, Background Checks, were published in the June 3, 1994 Illinois Register at 18 Ill. Reg. 8219. Public comments were received. After reviewing the public comments, the Department determined that the best course of action was to withdraw the proposed amendments to this Part which were published in June, 1994 and to republish modified proposed amendments. This will enable the Department to fully accommodate the public comments received, to incorporate the requirements of anticipated legislation into the proposed amendments, and to outline the implementation plan for this rulemaking in the text of the proposed amendments. In addition, by withdrawing and proposing modified amendments to this Part, the Department has insured that the public has sufficient opportunity to provide their comments on the proposed changes.

DEPARTMENT OF PUBLIC AID

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number:
140.413
Proposed Action:
Amendment
- 4) Date Notice of Proposed Amendments Published in the Illinois Register:
July 8, 1994 (18 Ill. Reg. 10637)
- 5) Reason for the Withdrawal:
On November 15, 1994, the Joint Committee on Administrative Rules suspended the emergency amendments which correspond to these proposed amendments. In response to that suspension, the Department has repealed the emergency amendments. This withdrawal of the corresponding proposed amendments is consistent with that response.

DEPARTMENT OF PUBLIC AID

NOTICE OF REPEAL OF EMERGENCY AMENDMENTS IN RESPONSE TO A SUSPENSION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number:
140.413
Emergency Action
Amendment
- 4) Notice of Emergency Amendments Published in the Illinois Register:
July 8, 1994 (18 Ill. Reg. 10922)
- 5) JCAR Statement of Suspension to Emergency Amendments Published in the Illinois Register:
December 2, 1994 (18 Ill. Reg. 17286)
- 6) Date Agency Submitted Repeal to JCAR for Approval:
April 4, 1995
- 7) Summary or Action Taken by the Agency:
The Department is repealing the emergency amendments in response to the suspension of the amendments by the Joint Committee on Administrative Rules under Section 5-125 of the Illinois Administrative Procedure Act. The repeal is effective April 4, 1995.

SECRETARY OF STATE

NOTICE OF CORRECTION

- 1) Heading of the Part: Beat Auto Theft (B.A.T.) Program
- 2) Code Citation: 92 Ill. Adm. Code 0004
- 3) The Regulatory Agenda corrected appeared at 19 Ill. Reg. 517, dated January 13, 1995.
- 4) The information being corrected is as follows:

The Heading of the Part was entered as Safe Ride. It should have been Beat Auto Theft (B.A.T.) Program.

SECRETARY OF STATE

NOTICE OF CORRECTION

- 1) Heading of the Part: Safe Ride
- 2) Code Citation: 92 Ill. Adm. Code 1035
- 3) The Regulatory Agenda corrected appeared at 19 Ill. Reg. 508, dated January 13, 1995.
- 4) The information being corrected is as follows:

The Heading of the Part was entered as Beat Auto Theft (B.A.T. Program. It should have been Safe Ride.

DEPARTMENT OF REVENUE

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1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act Citation:

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Ruling and General Information Letters issued for the Fourth Quarter of 1994. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter ruling are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 86 Ill. Adm. Code 1220.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Agents	Manufacturing Machinery
Agricultural Producers and Products	& Equipment
Assessments	Medical Appliances
Automobile Renting Tax	Miscellaneous
Bingo	Motor Fuel Tax
Books and Records	Motor Vehicles
Bulk Sales	Newsprint & Ink
C.O.A.D.	Nexus
Certificate of Registration	Nonprofit Insitutions
Charitable Games	Occasional Sale
Cigarette Tax	Oil Field Equipment
Claims for Credit	Penalties
Coal Fueled Devices	Pollution Control Facilities
Coal Mining Equipment	Prepaid Sales Tax
Coins & Precious Metals	Products of Photoprocessing
	Property Tax

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Computers Software	Public Utility Taxes
Construction Contractors	Real Estate Transfer Tax
Cooperative Associations	Repairs
Delivery Charges	Replacement Vehicle Tax
Distillation Machinery	Returns
Drug Tax Stamps	Rolling Stock Exemption
Drugs	Sale at Retail
Enterprise Zones	Sale for Resale
Exempt Organizations	Sale of Service
Farm Machinery & Equipment	Signature
Federal Excise Tax	Special Order
Financial Institutions	Statute of Limitations
Food	Tax Collection
Food, Drugs & Medical Appliances	Tax Increment Financing
Governmental Bodies	Tax Rate
Graphic Arts	Telecommunications Excise Tax
Gross Receipts	Temporary Storage
Hotel Operations' Tax	Tire User Fee
Interest	Trade-Ins
Interest Commerce	Use Tax
Itinerant Vendors	Vehicle Use Tax
Invested Capital Tax	Vendors
Leasing	
Liquor Tax	
Local Taxes	
Mandatory Service Charges	
Manufactures	

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25¢ per page for each page over one.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
Office of General Counsel
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-6996

DEPARTMENT OF REVENUE

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AGENTS

94-0491 11/15/1994 If a broker only acts as an agent for a disclosed principal, the broker incurs no Retailers' Occupation Tax liability. (This is a GIL.) \$1.25

94-0500 11/17/1994 If an agent of a retailer failed to forward the correct documentation or remittance to the Department, the retailer would be responsible for any tax, interest, or penalty that is incurred. (This is a GIL.) \$1.00

AUTOMOBILE RENTING TAX

94-0492 11/15/1994 If an exempt organization has an active exemption identification number issued by the Illinois Department of Revenue and the invoice or bill is issued to the exempt entity or the exempt entity is responsible for payment of the charges, the exempt organization will qualify for exemption from Automobile Renting Occupation and Use Tax. (This is a GIL.) \$1.75

BINGO

94-0601 12/23/1994 Please note that the aggregate retail value of all prizes or merchandise awarded by bingo establishments in any single day of bingo may not exceed \$2,250. If an establishment were to violate this provision, it is guilty of a Class A misdemeanor and the Department may suspend or revoke the bingo license of the establishment. (This is a GIL.) \$1.00

BOOKS AND RECORDS

94-0472 10/20/1994 The Department has determined that a single all purpose exemption statement would normally not be sufficient to legally document all exempt transactions in Illinois. (This is a GIL.) \$2.00

CERTIFICATE OF REGISTRATION

94-0428 10/05/1994 Section 2a of the Retailers' Occupation Tax Act provides that the Department may deny a certificate of registration to any applicant if the owner, or any partner or corporate officer of the applicant, is or has been the owner, or a partner or corporate officer, of another retailer that is in default for moneys due under this Act. The Department's policy is to actively pursue collection of taxes lawfully due this State by denying certificates of registration under the above circumstances. (This is a GIL.) \$1.75

DEPARTMENT OF REVENUE

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CLAIMS FOR CREDIT

94-0516 11/21/1994 This letter answers a survey regarding claims for credit under the Retailers' Occupation Tax Act and the Use Tax Act. (This is a GIL.) \$1.75

94-0576 12/12/1994 All claims for credit are subject to the statute of limitations. Since the limitations period on the filing of claims is statutory, the Department has no authority to waive the statute of limitations. The Department has no authority to agree to extend the time in which claims must be filed. (This is a GIL.) \$1.25

COMPUTER SOFTWARE

94-0461 10/18/1994 A sale of "canned" computer software is a taxable retail sale. If the computer software consists of custom computer programs, then the sale of such software is not a taxable retail sale. (This is a GIL.) \$1.75

94-0486 11/30/1994 Charges for updates of canned software are considered to be sales of software and are subject to Retailers' Occupation Tax. However, charges for updates of customized software are not subject to tax. (This is a GIL.) \$1.00

94-0542 12/01/1994 A sale of "canned" computer software is a taxable retail sale. If the computer software consists of custom computer programs or meets the requisite criteria as a license of computer software, then the sale or license of such software is not a taxable retail sale. (This is a GIL.) \$2.00

94-0563 12/08/1994 This letter answers a questionnaire concerning the taxability of different transactions concerning computer software and hardware. (This is a GIL.) \$1.75

94-0564 12/08/1994 The sale of canned computer software is generally a taxable retail sale. However, if the computer software consists of custom computer programs, then the sale of such software is not a taxable retail sale. Charges for telephone assistance, training, and consultation are exempt from taxation if they are separately stated from the selling price of canned software. Discusses shipping and handling and maintenance agreements. (This is a GIL.) \$1.25

94-0570 12/12/1994 This letter discusses the requirements for a nontaxable retail sale of a computer software license. (This is a GIL.) \$1.25

94-0575 12/12/1994 Charges for monthly updates of canned software are

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\$1.25 considered to be sales of software and are subject to Retailers' Occupation Tax. Charges for training, telephone assistance, installation and consultation are exempt if they are separately stated from the selling price of canned software. (This is a GIL.)

94-0617 12/30/1994 A sale of "canned" computer software is a taxable retail sale. If the computer software consists of custom computer programs or meets the requisite criteria as a license of computer software, then the sale or license of such software is not a taxable retail sale. (This is a GIL.)

CONSTRUCTION CONTRACTORS

94-0469 10/18/1994 This letter discusses the applicability of Public Act 88-420 to the business of furnishing and installing integrated home microwave signal receiving systems.

94-0479 10/24/1994 Tangible personal property which will be physically incorporated into public improvements, the ownership of which is required to be conveyed to a unit of local government pursuant to a pre-development transfer requirement, are exempt from Retailers' Occupation Tax and Use Tax. To claim the exemption, the contractor must provide his supplier with the exemption number of the governmental unit to which the public improvements will be transferred upon completion. (This is a GIL.)

94-0483 10/26/1994 Construction contractors that make improvements to real estate by taking materials off the market and permanently affixing them to real estate do not incur Retailers' Occupation Tax liability, but owe Use Tax on the cost price of those materials. If the materials are not intended to be permanently attached to the real estate, the materials are considered tangible personal property and are subject to either Retailers' Occupation Tax or Service Occupation Tax. (This is a GIL.)

DELIVERY CHARGES

94-0488 11/15/1994 Whether shipping and handling or delivery charges may be deducted by a retailer in determining the retailer's Retailers' Occupation Tax liability depends on whether the shipping and handling or delivery charges are included in the selling price of the property or are contracted for separately by the purchaser and the retailer. (This is a GIL.)

94-0515 11/21/1994 Whether shipping and handling or delivery charges may be deducted by a retailer in determining his Retailers' Occupation Tax liability depends on whether the shipping and handling or delivery charges are included in the selling price of

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the property or are contracted for separately by the purchaser and the retailer. (This is a GIL.)

94-0520 11/22/1994 If a delivery charge is included in the selling price of tangible personal property and the retailer ships both taxable and exempt tangible personal property in a single shipment to the purchaser, the amount of the freight charge representing the freight charge for the taxable item is subject to Retailers' Occupation Tax. (This is a GIL.)

94-0553 12/05/1994 Shipping charges may be excluded from gross receipts and not subject to Retailers' Occupation Tax where the seller and buyer agree upon the charges separately from the selling price of the merchandise. The best evidence that shipping charges were agreed to separately and apart from the selling price, is a separate and distinct contract for shipping. (This is a GIL.)

94-0566 12/12/1994 In the mail order context, so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation, delivery or shipping and handling are reflective of the actual costs of such transportation, delivery, or shipping, they are not taxable.

94-0573 12/12/1994 Whether shipping and handling or delivery charges are subject to Retailers' Occupation Tax depends on whether the shipping and handling or delivery charges are included in the selling price of the property or are contracted for separately by the purchaser and the retailer. (This is a GIL.)

ENTERPRISE ZONES

94-0452 10/07/1994 In order to claim the enterprise zone exemption for building materials, a contractor or other purchaser must purchase the materials from a retailer located in the municipality or unincorporated area of the county which has established the enterprise zone into which the materials will be incorporated. Purchases from a retailer who is not located within these areas do not qualify for the exemption for building materials. (This is a GIL.)

94-0462 10/14/1994 This letter outlines the application of the enterprise zone building materials exemption to a specific set of transactions. (This is a GIL.)

94-0587 12/13/1994 Section 5(1) of the Retailers' Occupation Tax Act specifically directs a supplier to collect tax from a high impact business purchasing building materials and then file a claim for credit or refund to recover the amount of tax paid. The

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procedures for claims for credit are found in Section 6a of the Act and in the enclosed copy of the Department's regulations at 86 Ill. Adm. Code 130.1501.

EXEMPT ORGANIZATIONS

94-0414 10/05/1994 Organizations that make application to the Department \$2.00 and are determined to be exclusively religious, educational, or charitable etc., receive an exemption identification number (an "E" number). This letter outlines the tax liabilities, if any, of these organizations. (This is a GIL.)

94-0434 10/06/1994 This letter discusses what types of organizations \$1.25 qualify for exempt status in order to make tax-free purchases. (This is a GIL.)

94-0454 10/07/1994 Construction contractors making purchases of \$1.00 materials which will be incorporated into real estate owned by an exempt government entity may purchase such materials tax free by giving suppliers the certification required by Section 130.2075(d). (This is a GIL.)

94-0504 11/18/1994 Letter explaining that an organization owes sales tax \$1.00 on a vehicle because it did not have a valid sales tax exemption number at the time of purchase. (This is a GIL.)

94-0536 11/04/1994 An exempt entity making sales of food at a cafeteria \$1.00 that is open to the public will incur Retailers' Occupation Tax liability on all sales made through the cafeteria, even if a method exists to distinguish between sales to students and sales made to the public. (This is a GIL.)

FARM MACHINERY & EQUIPMENT

94-0432 10/06/1994 Production agriculture includes the harvesting of \$1.00 trees for sale. Therefore, skidders used primarily in production agriculture to gather trees after cutting may qualify for the farm machinery and equipment exemption. (This is a GIL.)

94-0518 11/22/1994 Section 130.305(m) provides that the "exemption \$1.00 certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in production agriculture or in State or Federal agricultural programs". If the certificate states that the farm machinery and equipment being purchased will be "used or leased for use in production agriculture", it does not comply with the requirements of Section 130.305(m). (This is a GIL.)

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94-0526 11/28/1994 Machinery and equipment which is used primarily in \$1.00 production agriculture qualifies for the farm machinery and equipment exemption. The breeding and raising of chickens and the production of eggs for subsequent sale constitutes a type of production agriculture. Production agriculture does not include all activities performed on a farm. (This is a GIL.)

94-0555 12/06/1994 This letter applies the Farm Machinery & Equipment \$1.25 and Farm Chemicals exemptions to products sold by a farm supply business. (This is a GIL.)

94-0615 12/29/1994 Wood shavings, tree bark chips, and sawdust used for \$1.50 animal bedding does not qualify for the Farm Machinery & Equipment exemption. (This is a GIL.)

FOOD

94-0453 10/07/1994 Soft drinks, whether bottled or canned, are always \$1.25 taxable at the high rate of tax. The term "Soft drinks" does not include teas. Therefore, sales of bottled teas are subject to the low rate of tax when sold by a store that primarily sells grocery type items and also has restaurant facilities only if the restaurant facilities are physically partitioned from areas in which food not for immediate consumption is sold and utilizes a separate means of recording and accounting for their sales. (This is a GIL.)

94-0530 11/30/1994 A doughnut shop that sells food items primarily (more \$1.00 the 50%) in quantities greater than individual sized servings generally incurs tax at the lower 1% rate. However, the full rate of tax is applicable to all sales made by such a shop that provide facilities for the consumption of food on premises unless those facilities utilize a separate means of recording and accounting for collection of receipts from such sales for consumption on the premises and are physically partitioned from areas in which food not for immediate consumption is sold. (This is a GIL.)

94-0595 12/16/1994 A private dormitory that provides rooms, food, and \$1.50 beverages is subject to the Retailers' Occupation Tax on its sales of food and beverages. Such sales are subject to the high rate of tax since the food is prepared for immediate consumption.

FOOD, DRUGS & MEDICAL APPLIANCES

94-0559 12/07/1994 Tea, whether flavored or unflavored, has been

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\$1.00 specifically excluded from the definition of "soft drinks" which are always subject to the high rate of tax. (This is a GIL.)

94-0571 12/12/1994 All sales of food items from vending machines will be subject to the high rate of tax where either the food which is sold is hot or the vending machine is located in an area which provides seating so that the food can be consumed on the premises where it is purchased. (This is a GIL.)

94-0585 12/13/1994 Products which do not meet the appropriate definitions of food, drugs, medicines or medical appliances, or are food prepared by the vendor for immediate consumption, are taxable at the higher State sales tax rate of 6.25%.

94-0600 12/22/1994 This General Information Letter discusses whether certain items qualify as medical appliances. (This is a GIL.)

94-0609 12/27/1994 Meals prepared by a caterer and sold to airlines for in-flight service, are not prepared for immediate consumption, and are taxable at the lower food rate. (This is a GIL.)

GOVERNMENTAL BODIES

94-0417 10/05/1994 Equipment and materials that a purchaser uses in fulfilling its contract with a government agency or body are subject to Illinois Use Tax even if ownership of the equipment and materials is ultimately retained by that government agency or body. (This is a GIL.)

94-0619 12/30/1994 Equipment and materials purchased by a contractor in order to fulfill its contract with a unit of government are subject to Illinois Use Tax, even if ownership of the equipment is ultimately transferred to the government. (This is a GIL.)

GRAPHIC ARTS

94-0490 11/15/1994 This letter answers a number of questions concerning self service computers, printers and typewriters, miscellaneous computer services, film processing, and facsimile services. (This is a GIL.)

94-0544 12/02/1994 Under the Graphic Arts Machinery and Equipment Exemption, machinery and equipment used primarily in graphic arts production may be purchased free from Retailers' Occupation Tax and Use Tax. (This is a GIL.)

94-0548 12/02/1994 The Graphic Arts Machinery and Equipment Exemption provides that machinery and equipment used primarily in graphic

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arts production may be purchased free from Retailers' Occupation Tax. (This is a GIL.)

94-0572 12/12/1994 The Graphic Arts Machinery and Equipment Exemption applies only to machinery and equipment used primarily in graphic arts production. (This is a GIL.)

94-0627 12/30/1994 A printing plate that is capable of sustained use, such as for 50,000 copies, would qualify for the Graphic Arts Machinery and Equipment Exemption. (This is a GIL.)

GROSS RECEIPTS

94-0418 10/05/1994 A maintenance agreement that is not included as part of the selling price of tangible personal property but is sold as a separate agreement for a predetermined fee is not part of the gross receipts of sale that are subject to Retailers' Occupation Tax and Use Tax. The serviceman that provides service under the separate maintenance agreement is required to pay tax to his supplier on the cost price of the tangible personal property that is transferred incident to the completion of the maintenance agreement. (This is a GIL.)

94-0422 10/05/1994 If a seller receives a reimbursement or rebate for a discount, the amount of that reimbursement or rebate is considered part of the gross receipts received by the seller and is subject to Retailers' Occupation Tax. If a seller provides a discount to a purchaser and does not receive a reimbursement or rebate for that discount, only the (discounted) amount received by the seller is taxable. (This is a GIL.)

94-0438 10/07/1994 A State or local tax other than the Retailers' Occupation Tax which is imposed upon the sale of tangible personal property is not included in gross receipts which form the base for Retailers' Occupation Tax if it is imposed upon the consumer. However, when a manufacturer or importing distributor bears the legal incidence of the tax, the tax is includable in gross receipts subject to tax. The State Leaking Underground Tax is includable in gross receipts since this tax is imposed at the manufacturer or importer level. (This is a GIL.)

94-0446 10/07/1994 In order to change from the gross receipts to the gross sales method of accounting, the taxpayer must remit payment to the Department for the tax due on all receivables on the books at the date of the conversion. (This is a GIL.)

94-0457 10/07/1994 In order to change from the gross receipts to the

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\$1.00 gross sales method of accounting, the taxpayer must remit payment to the Department for the tax due on all receivables on the books at the date of the conversion. (This is a GIL.)

94-0471 10/19/1994 To change your reporting method from the accrual method to a gross receipts (cash) method, a taxpayer should attach a letter to the taxpayer's next month's return stating that the taxpayer has elected to change from the accrual method of reporting receipts to the gross receipts method. The taxpayer should use the "wash-out" procedure to reduce reporting problems when receipts on account are received in a month subsequent to the month of sale when a reporting change has been made. (This is a GIL.)

94-0484 10/26/1994 This letter explains the tax liabilities of a broker who brings together vendors and purchasers by means of sales of computer software that lists products of various vendors, and who then consolidates the billing process for the purchasers and vendors.

94-0494 11/15/1994 Caterers are considered to be retailers and are subject to the Retailers' Occupation Tax on their gross receipts from sales. Caterers may not deduct costs of doing business associated with their sales of food. Consequently, gross receipts for providing china, glassware, tables, chairs and linens may not be deducted by caterers when calculating their Retailers' Occupation Tax liability. (This is a GIL.)

94-0527 11/29/1994 When a State or local tax other than the Retailers' Occupation Tax is imposed upon a consumer and collected by a retailer, it is not included in the gross receipts subject to Retailers' Occupation Tax. (This is a GIL.)

94-0538 11/15/1994 The amount of gross receipts subject to Retailers' Occupation Tax for the sale of tangible personal property includes any "processing charges" that the retailer adds to the sale price of the property. (This is a GIL.)

94-0561 12/07/1994 When an item of tangible personal property is sold at retail and includes a core fee, the full retail selling price of the item, including the core fee, is subject to Retailers' Occupation Tax liability. (This is a GIL.)

94-0579 12/13/1994 Unless the divisions of a company are separately registered as retailers with the Department, there is no need to collect sales tax on intra-company transfers since these transfers are not sales subject to tax under the Retailers' Occupation Tax. (This is a GIL.)

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94-0589 12/14/1994 This letter discusses what types of items are taxable under the Retailers' Occupation Tax Act and what rate of tax is applicable to the sales of those items. (This is a GIL.)

HOTEL OPERATORS' TAX

94-0508 11/18/1994 The Hotel Operators' Occupation Tax Act provides no exemption for the rental of rooms to tax-exempt churches, charities, schools, or units of government. (This is a GIL.)

94-0560 12/07/1994 The Hotel Operators' Occupation Tax Act provides no exemption for the rental of rooms to churches, charities, schools, or units of government. (This is a GIL.)

INTERSTATE COMMERCE

94-0439 10/07/1994 An exemption is available for a transaction that occurs in interstate commerce. If a seller and buyer have an agreement that the seller will ship the product from a point in Illinois to a point outside Illinois, and the product will not be returned to Illinois, the transaction is exempt from tax as long as shipment actually does occur to a point outside Illinois. (This is a GIL.)

94-0482 10/26/1994 In order to qualify for the interstate commerce exemption, a dealer must ship the vehicles out of Illinois. The interstate commerce exemption cannot be claimed when a purchaser obtains possession of the vehicles in Illinois from the dealer. (This is a GIL.)

94-0501 11/17/1994 When tangible personal property is located in this State at the time of its sale, and then is physically delivered in Illinois to the purchaser or the purchaser's representative, tax is due. The fact that the purchaser subsequently transports or sends the property out of the State for use outside the State does not make the sale tax exempt. (This is a GIL.)

94-0596 12/21/1994 Where purchase orders for tangible personal property are accepted in Illinois and the purchaser takes physical possession of that property in Illinois, the sale is properly taxable. The fact that the purchaser subsequently transported the goods out of the country, after receiving physical possession of them in Illinois, is immaterial. (This is a GIL.)

94-0603 12/27/1994 Section 130.605(c) states that Retailers' Occupation Tax does not apply where the seller ships goods by carrier or by mail, according to the terms of the agreement with the purchaser, and the seller delivers the goods from a point within Illinois

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to a point outside Illinois and the goods are not to be returned to Illinois. Such sales are considered to be sales in interstate commerce and are exempt from Illinois Retailers Occupation Tax. (This is a GIL.)

LEASING

94-0436 10/07/1994 This letter discusses issues surrounding automobile leasing, including trade-ins, credits for properly paid taxes, taxability of fees and excise taxes, and sales of automobiles at the end of lease periods. (This is a GIL.)

94-0485 10/27/1994 As the end user of tangible personal property located in Illinois, a lessor of tangible personal property incurs Use Tax on his cost price of the property. Since the lessor is considered the end user of the property and has paid the Use Tax, no Retailers' Occupation Tax is imposed upon the rental receipts and the lessee incurs no Use Tax liability for the rental charges. (This is a GIL.)

94-0498 11/16/1994 Except for automobiles leased for a period of one year or less, the lessor of tangible personal property in Illinois is considered to be the end user of the property to be leased, and the lessor incurs Use Tax on the lessor's cost price of the property. (This is a GIL.)

94-0439 11/16/1994 This letter sets out how a sale/lease-back situation is taxed. (This is a GIL.)

94-0512 11/21/1994 Except for automobiles leased for a period of one year or less, the lessor of tangible personal property in Illinois is considered to be the end user of the property to be leased and incurs Use Tax on the lessor's cost price of the property. (This is a GIL.)

94-0513 11/21/1994 Except for automobiles leased for a period of one year or less, the lessor of tangible personal property in Illinois is considered to be the end user of the property to be leased and incurs Use Tax on the lessor's cost price of the property. (This is a GIL.)

94-0528 11/29/1994 In Illinois, lessors of tangible personal property under true leases are deemed to be the users of items held for lease purposes and incur a Use Tax liability on the cost price of those items. The exception is lessors of automobiles under lease terms of one year or less. (This is a GIL.)

94-0614 12/29/1994 In a true lease situation, the lessor owes Use Tax on

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\$1.50 the cost price of property used since the lessor is the end user. In a conditional sale, Retailers' Occupation Tax is calculated on each payment as it is received. (This is a GIL.)

94-0626 12/30/1994 A lessor of tangible personal property incurs a Use Tax liability on the cost of repair parts used in the repair or maintenance of the leased property. (This is a GIL.)

LOCAL TAXES

94-0458 10/12/1994 The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. The location at which this occurs generally fixes jurisdiction for local sales taxes. A seller is required to collect not only the State tax at the 6.25 percent rate, but also any additional local taxes that may apply. (This is a GIL.)

94-0523 11/22/1994 The rate of local tax in Illinois is determined by the location of the seller's acceptance of purchase orders. Absent clear proof to the contrary, the Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives the purchase order (seller's location). (This is a GIL.)

94-0582 12/13/1994 Local taxes are only required to be collected if purchase orders are accepted in Illinois or inventory is maintained in Illinois. Where purchase orders are not accepted in Illinois but rather Wisconsin, and orders are filled from inventory located outside Illinois, the retailer is required to collect the 6.25% State rate of tax on sales delivered to Illinois locations but not required to collect any local taxes.

94-0593 12/16/1994 (This is a GIL.) This letter answers a series of questions about the Home Rule Use Tax.

94-0606 12/27/1994 Local taxes are only required to be collected if selling occurs in a jurisdiction imposing a local tax. The Department has determined that the single most important factor in the occupation of selling is the seller's acceptance of the purchase order. Therefore, local taxes will be incurred if the purchase order is accepted in a locality imposing a tax. (This is a GIL.)

MANUFACTURING MACHINERY & EQUIPMENT

94-0416 10/05/1994 Machinery and equipment that is used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease is exempt from Retailers'

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Occupation Tax and Use Tax. (This is a GIL.)

94-0423 10/05/1994 Machinery and equipment that is used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease is exempt from Illinois Retailers' Occupation Tax. (This is a GIL.)

94-0440 10/07/1994 The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. In order to document the exemption, the user of such machinery and equipment must supply an exemption certificate to the retailer. The user may provide an active registration or resale number in lieu of the prescribed certificate. (This is a GIL.)

94-0455 10/07/1994 The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. (This is a GIL.)

94-0493 11/15/1994 Machinery and equipment that is used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease is exempt from Retailers' Occupation Tax. (This is a GIL.)

94-0496 11/16/1994 Abrasives and drill bits may qualify for the manufacturing machinery and equipment exemption as replacement parts as long as such abrasives and drill bits are incorporated into manufacturing machinery and equipment that is exempt under the regulation. Hand tools and supplies, such as sandpaper sheets purchased for hand sanding, also do not qualify for the manufacturing machinery and equipment exemption. (This is a GIL.)

94-0503 11/17/1994 The Illinois Department of Revenue does not have any reciprocal agreement with any other State concerning the acceptance of another State's manufacturing machinery and equipment certificate. (This is a GIL.)

94-0506 11/18/1994 This letter describes the tax exemptions available for manufacturing machinery and equipment and the manufacturer's purchase credit. (This is a GIL.)

94-0554 12/05/1994 The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. (This is a GIL.)

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MEDICAL APPLIANCES

94-0470 10/18/1994 A reduced tax rate of 1% is applied to medicines and medical appliances. A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. (This is a GIL.)

94-0474 10/20/1994 Oxygen that is used by persons with breathing disabilities qualifies for the lower 1% rate of tax provided for medicines and medical appliances. (This is a GIL.)

94-0507 11/18/1994 This letter expands upon the tax treatment of the "air nebulizer" as discussed in prior letter rulings No. 93-0108 and 92-0135. (This is a GIL.)

94-0514 11/21/1994 A reduced tax rate of 1% is applied to medicines and medical appliances. A medical appliance is defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. (This is a GIL.)

94-0521 10/18/1994 Low vision video reading systems, video magnifiers and software each directly substitute for a malfunctioning part of the body and are not used solely for treatment or diagnosis. As a result, these appliances would be subject to the lower rate of tax. (This is a GIL.)

94-0522 10/18/1994 A personal reading machine qualifies as a corrective medical appliance since it directly substitutes for a malfunctioning part of the body and is not used solely for treatment or diagnosis.

94-0531 11/30/1994 A bone healing system does not qualify for the low rate of tax because it is not used in directly substituting for a malfunctioning part of the body. (This is a GIL.)

94-0568 12/12/1994 Sales of medical appliances, such as wheelchairs, electric wheelchairs, canes, and walkers, are subject to the low rate of tax, 1% plus applicable local taxes. Batteries and parts for qualifying medical appliances are also subject to the lower tax rate as they are necessary for the operation of the medical appliances. Batteries not sold specifically for qualifying medical appliances may qualify for the lower tax rate if certification is obtained from the purchaser that the batteries are to be used for the qualifying medical appliances. Sales made in interstate commerce, per the provisions of 86 Ill. Adm. Code 130.605(c), are not subject to Retailers' Occupation

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Tax. (This is a GIL.)

94-0608 12/27/1994 The Department does not publish a list of items
\$1.25 constituting drugs and medical appliances. However, the
principles used to classify various items are contained in
Section 130.310 of the Department's regulations. (This is a GIL.)

94-0616 12/30/1994 This General Information Letter discusses the
\$2.00 taxation of various types of medical appliances, including seat
lift chairs, commode chairs, raised toilet seats, geriatric
chairs, shower benches, wheelchair cushions, portable wheelchair
ramps, catheters, splints, and air compression nebulizers.

94-0625 12/30/1994 Medical appliances are taxed at a preferential low
\$1.00 rate. A medical appliance is an item intended by its manufacturer
to directly substitute for a malfunctioning part of the body.
Medical appliances, with some specific exceptions, do not include
items used in diagnosis. Some hospitals may be able to claim an
exemption from tax due to their tax exempt charitable status.

MISCELLANEOUS

94-0419 10/05/1994 This letter forwards a new business packet and
\$1.00 explains that a purchaser should provide a supplier with a
Certificate of Resale if the purchaser is purchasing tangible
personal property in Illinois for resale, and not for use or
consumption. (This is a GIL.)

94-0421 10/05/1994 The Department will not change or modify any Private
\$1.00 \$tLetter Ruling or General Information Letter that has already been
provided by the Department of Revenue in response to a taxpayer
request. (This is a GIL.)

94-0435 10/06/1994 This letter is in response to a survey of various
\$1.50 Illinois Sales tax laws. (This is a GIL.)

94-0450 10/07/1994 This letter responds to a letter mistakenly sent to
\$1.25 the Department. (This is a GIL.)

94-0466 10/12/1994 This letter makes a correction to a letter issued on
\$1.00 October 6, 1993, regarding the application of the XXXXX Water
Commission Retailers' Occupation Tax. (This is a GIL.)

94-0473 10/20/1994 The Office of General Counsel will not comment on a
\$1.25 tax liability once a taxpayer has failed to utilize his
procedural remedies and the liability has become a final
assessment. (This is a GIL.)

94-0476 10/24/1994 Taxpayer request for rules and regulations in sales,

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\$1.00 corporate income and franchise taxes. (This is a GIL.)

94-0478 10/24/1994 This letter explains the basic procedures and
\$1.50 regulations that a retailer new to Illinois must follow in order
to fulfill the sales tax obligations of the State of Illinois.
(This is a GIL.)

tf 94-0487 11/15/1994 Persons engaged in the operation of legal games of
\$1.00 skill are not in the business of selling tangible personal
property at retail and do not incur Retailers' Occupation Tax
liability on the gross receipts from the operation of those games.
(This is a GIL.)

94-0489 11/15/1994 If a taxpayer requests an administrative hearing
\$1.00 before the Department of Revenue, the Department will only
address a contested liability in that forum. (This is a GIL.)

94-0509 \$t11/18/1994 This letter describes how tax-paid product is
\$1.25 reported on Form TP-1 under the Tobacco Products Tax Act. (This
is a GIL.)

94-0529 11/30/1994 The Department will not pre-approve memoranda that
\$1.00 are distributed to other taxpayers that contain condensed
information about Illinois tax laws. (This is a GIL.)

94-0539 11/15/1994 The Department is unable to provide copies of
\$1.00 Illinois Statutes to taxpayers. (This is a GIL.)

94-0551 12/05/1994 This letter discusses retail sales, prohibitions
\$1.50 against advertising that Use Tax will be borne by the retailer
and the requirement that retailers register with the Department.
(This is a GIL.)

94-0552 12/05/1994 The Department does not have the authority to enter
\$1.25 into agreements not to take retroactive action to enforce the tax
laws of the State of Illinois. However, a taxpayer may be able to
take advantage of certain voluntary disclosure provisions in
order to limit a non-filing taxpayer's liability to a four-year
period. (This is a GIL.)

94-0562 12/08/1994 Review of general statement of current law concerning
\$1.00 coal mining for a coal mining publication. (This is a GIL.)

94-0581 12/13/1994 There is no sales tax imposed upon inventory sitting
\$1.00 \$1.00 in a manufacturer's warehouse at year's end. (This is a
GIL.)

94-0588 \$t12/14/1994 This letter discusses several areas of taxation

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94-0592 \$2.75 including sales for resale, Service Occupation Tax, shipping and handling charges, and sales of packing materials. (This is a GIL.)

94-0592 \$1.00 12/14/1994 Sales of memberships are not subject to tax. Such sales represent sales of an intangible benefit, and intangibles are not subject to tax in Illinois. (This is a GIL.)

94-0599 \$1.25 12/22/1994 In a sale/lease back situation, typically user A purchases equipment from retailer B. User A sells the equipment to lessor C and lessor C then leases the equipment back to user A. (This is a GIL.)

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As such, the lessee is liable for Use Tax on any antennae, transmitters, and receivers that it purchases. (This is a GIL.)

94-0607 \$1.00 12/27/1994 The Retailers' Occupation Tax Act taxes persons engaged in the business of selling tangible personal property at retail. The leasing of space, or real property, by a lessee to place an antenna, transmitter, and receiver equipment does not involve the selling of tangible personal property at retail and is therefore not subject to Retailers' Occupation Tax. However, the Use Tax Act provides for a privilege tax imposed on the privilege of using, in Illinois, any kind of tangible personal property that is purchased anywhere at retail from a retailer. As such, the lessee is liable for Use Tax on any antennae, transmitters, and receivers that it purchases. (This is a GIL.)

94-0628 \$2.00 12/23/1994 This letter lists the documentation required to claim various ROT exemptions (This is a GIL.)

MOTOR FUEL TAX

94-0517 \$1.50 11/22/1994 This letter provides information on why the described diesel fuel sale was subject to the Illinois Underground Storage Tank Tax. (This is a GIL.)

MOTOR VEHICLES

94-0525 \$2.75 11/23/1994 Response to survey concerning motor carrier sales and Use Tax liability. (This is a GIL.)

NEWSPRINT & INK

94-0437 \$1.25 10/07/1994 The Newsprint & Ink exemption exists for sales of newspapers and magazines. In making a determination as to whether a publication qualifies as a "magazine" for purposes of the sales tax exemption, the test which must be met is that the publication must be issued at least twice a year. Other factors are also to be considered. (This is a GIL.)

94-0547 \$1.00 12/02/1994 Publications that qualify as "magazines" are exempt from Retailers' Occupation Tax in Illinois. In order to qualify as a magazine, a publication must be published periodically and not just on an annual basis. It must also possess at least one characteristic of a magazine. (This is a GIL.)

94-0610 \$1.25 12/28/1994 (This is a GIL.) Sales of newspapers and magazines are not subject to ROT and SOT. Custom printed programs that are published for events that occur on a frequent and recurring basis (for example, plays, concerts, ballgames, etc.) are considered to

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be the equivalent of magazines that are exempt from tax.

NEXUS

94-0465 10/18/1994 An out-of-state retailer is considered to be a
\$1.50 "retailer maintaining a place of business in Illinois" when he has the requisite nexus with Illinois. It must be shown that the retailer has a physical presence in the taxing state. This type of retailer is required to register with the State as an Illinois Use Tax collector. (This is a GIL.)

94-0534 11/03/1994 Presence of a service provider hired on an arm's
\$1.75 length commercial transaction to generate and maintain mailing lists for an out-of-State retailer with no physical presence in Illinois does not create nexus for Use Tax collection purposes. (This is a GIL.)

94-0535 11/04/1994 This letter explains the two-part test inquiry that
\$1.00 must be made pursuant to the Quill decision to determine if sufficient nexus exists for a jurisdiction to impose tax collection obligations on a retailer. (This is a GIL.)

POLLUTION CONTROL FACILITIES

94-0425 10/05/1994 Sales of pollution control facilities are exempt from
\$1.25 Retailer's Occupation Tax and Use Tax. As defined in Section 130.335, a pollution control facility includes any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act, 415 ILCS 5/1 et seq., or for the primary purpose of treating, pretreating, modifying, or disposing of any potential solid, liquid, or gaseous pollutant which if released without such treatment, pretreatment, modification, or disposal might be harmful, detrimental, or offensive to human, plant, or animal life, or to property. (This is a GIL.)

94-0441 10/07/1994 The Department has found no instance where the
\$1.00 purchase of a backhoe has qualified for exemption from Retailers' Occupation Tax as a pollution control facility. (This is a GIL.)

94-0475 10/24/1994 An individual wastewater treatment plant qualifies
\$1.00 for the pollution control facilities exemption because the primary purpose of the Plant is for the reduction or elimination of pollutants. (This is a GIL.)

94-0495 11/15/1994 In order to claim the pollution control facilities

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\$1.50 exemption, it must be shown that the primary purpose of the equipment is to reduce or eliminate pollution. If the primary purpose of the equipment is to economically benefit the purchaser, and it only tangentially eliminates pollution, the exemption cannot be claimed. A "reverse osmosis system" which is part of a demineralizing process used by a power company to clean water of impurities before it is converted to steam and run through machinery, is not eligible for the exemption. The primary purpose of the system is to assist in the process of purifying water that safeguards the company's machines. Any reduction of pollution which results from use of the system is only tangential. (This is a GIL.)

94-0556 12/06/1994 Vapor recovery equipment can qualify for the
\$1.25 pollution control facilities exemption if its primary purpose is to control vapor pollution at gasoline station dispensers. However, if the primary purpose of the equipment is to confer an economic benefit on the user, it will not qualify for the exemption. As the regulation explains, items that are an integral part of a qualifying pollution control device can also qualify for the exemption. Thus, the hoses, nozzles, hose clamps, vapor splitters, and replacement parts would qualify for the exemption if they are an integral part of the qualifying vapor recovery equipment.

94-0624 12/30/1994 If the primary purpose of the products in question is
\$1.25 to serve as part of an overall system or method of eliminating, reducing, or preventing pollution, they may qualify for the exemption.

PRODUCTS OF PHOTOPROCESSING

94-0591 12/14/1994 The sale of albums is not considered to be a sale of
\$1.25 a product of photoprocessing. The sale of albums constitutes a retail transaction in which 100% of the selling price of the items are subject to tax. If these items are part of a "package" sold by a professional photographer, the price of these items must be apportioned by the photographer and taxed at the rate of 100% of the selling price. (This is a GIL.)

PUBLIC UTILITY TAXES

94-0427 10/05/1994 The Gas Revenue Tax Act imposes a tax upon persons
\$1.25 engaged in the business of distributing, supplying, furnishing, or selling gas to persons for use or consumption and not for resale. (This is a GIL.)

94-0574 12/12/1994 Sellers of natural gas are not liable for tax with

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\$1.00 respect to their receipts from gas distributed, supplied, furnished or sold to the United States Government, its unincorporated departments, agencies or instrumentalities. Therefore, a company is not liable for tax on its sales of natural gas to a U.S. Congressman's district office where the payment is made by U.S. Government check written on a U.S. Government account. (This is a GIL.)

94-0586 \$1.25 12/13/1994 This letter answers a number of questions concerning application of the Gas Revenue Tax to sales of natural gas. (This is a GIL.)

REAL ESTATE TRANSFER TAX

94-0460 \$1.25 10/18/1994 The Federal Home Loan Mortgage Corporation Act (12 U.S.C. Sec. 1452) provides certain exemptions from State and local taxation. The Department cannot confirm that the Act provides an exemption for real estate transfer taxes. (This is a GIL.)

RETURNS

94-0443 \$1.00 10/07/1994 Every person engaged in the business of selling tangible personal property at retail must file a Form ST-1 on a monthly basis on or before the 20th day of each month. A taxpayer can be authorized by the Department to file a quarterly or annual return. (This is a GIL.)

94-0445 \$1.00 10/07/1994 The Department may approve a taxpayer's use of certain computer generated returns. (This is a GIL.)

94-0565 \$1.00 12/12/1994 We cannot advise a taxpayer that using CD-ROM technology will comply with Retailers' Occupation Tax record keeping or audit requirements. However, if the taxpayer intends to use such a system, we suggest that it follow the requirements of subsection (b) of Section 130.805 as a guideline and retain all original documents. (This is a GIL.)

94-0584 \$1.25 12/13/1994 Every person engaged in the business of selling tangible personal property at retail must file a Form ST-1 on a monthly basis on or before the 20th day of each month.

ROLLING STOCK EXEMPTION

94-0449 \$1.25 10/07/1994 Not all items of tangible personal property purchased by an interstate carrier for hire qualify for the rolling stock exemption. To qualify, the property must be physically incorporated into the qualified interstate carrier for hire.

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Repair parts and paints which become a physical component of the vehicle qualify for the exemption. Supplies which do not become a physical component of the vehicle do not qualify for the exemption. (This is a GIL.)

94-0456 \$1.00 10/07/1994 The rolling stock exemption can be claimed for qualifying purchases. The property must either be physically incorporated into the interstate carrier for hire or must remain in the interstate carrier long enough to be considered a component part. Motor oil used in qualifying vehicles is eligible for the rolling stock exemption since it remains in the vehicle long enough to be considered a component part. (This is a GIL.)

94-0459 \$1.00 10/18/1994 Glycol, a chemical used to de-ice aircraft, does not qualify for the rolling stock exemption even where it is used in conjunction with the aircraft's in-flight de-icing equipment.

94-0468 \$1.25 10/18/1994 Railroad intermodal trailers can qualify for the rolling stock exemption from Illinois Retailers' Occupation Tax when they are leased to lessees who are interstate carriers for hire on a regular and frequent basis so long as the length of the lease agreements are one year or longer. (This is a GIL.)

94-0578 \$1.00 12/13/1994 In order to qualify for the rolling stock exemption, the equipment has to be dedicated to a specific qualifying carrier and participate directly in the transportation process. To be considered dedicated to a specific carrier, the equipment must only be used in conjunction with a specific carrier and cannot be used with other vehicles or for other purposes. (This is a GIL.)

94-0602 \$1.25 12/27/1994 The Rolling Stock Exemption is applicable to equipment or parts only if they become a component part of qualifying rolling stock and to equipment which, though not physically incorporated, is dedicated to a particular qualifying carrier and participates directly in the transportation process.

SALE AT RETAIL

94-0415 \$1.00 10/05/1994 Consumable items, such as masking tape, sandpaper, paint thinner, etc., that are used or consumed by body shops, service stations, or other service providers are not being purchased for resale and are subject to Retailers' Occupation Tax and Use Tax when they are purchased by those service providers. (This is a GIL.)

94-0467 \$1.25 10/03/1994 This letter explains some of the potential tax liabilities of pharmacies and their third-party payors.

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94-0497 11/16/1994 The sale of satellite television programming services to persons with satellite dishes is not a sale of tangible personal property. As a result, Retailers' Occupation Tax and Use Tax do not apply to the gross receipts on these sales because they are not sales of tangible personal property. (This is a GIL.)

94-0511 11/21/1994 A retailer that repairs used laser cartridges and is not contractually obligated to his customer to return that specific laser cartridge to that customer, but may replace that cartridge with a previously repaired cartridge from the retailer's inventory, is acting as a retailer and not as a serviceman. (This is a GIL.)

94-0537 11/07/1994 The transactions involving solely the transfer of an intangible, such as the sale of an interest in a trust (with no change in title to the tangible personal property owned by the trust), no Retailers' Occupation Tax is incurred since no tangible personal property is transferred at retail. (This is a GIL.)

94-0543 12/01/1994 The sale of shredded tires for use as a heating fuel is a sale for use or consumption and is subject to Retailers' Occupation Tax. (This is a GIL.)

94-0558 12/07/1994 An airport association's transfer of fuel to its members is a sale at retail and is subject to Retailers' Occupation Tax. (This is a GIL.)

94-0583 12/13/1994 The Retailers' Occupation Tax Act taxes persons engaged in the business of selling tangible personal property at retail. A "sale at retail" is any transfer of the ownership of, or title to, tangible personal property to a purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable consideration. The sales of tub grinding services involve no transfer of tangible personal property and therefore are not subject to taxation. Tub grinding services do not qualify for the Manufacturing Machinery and Equipment exemption or the Pollution Control Facilities exemption.

94-0604 12/27/1994 The purchase of register tape by a retailer for the retailer's own use or consumption does not involve a "sale for resale" but rather a "sale at retail". Even though the register tape is ultimately transferred to customers, the register tape is purchased for the retailer's own on-premises use and therefore is not a "sale for resale". (This is a GIL.)

SALE FOR RESELL

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94-0442 10/07/1994 Sales of tangible personal property to a purchaser for purposes of resale are not subject to Retailers' Occupation Tax if the purchaser has an active registration or resale number issued by the Department and gives that number to the supplier in connection with a Certificate of Resale, or presents the retailer with "other evidence" that the sale is for resale. (This is a GIL.)

94-0447 10/07/1994 This letter outlines the tax treatment of drop shipment transactions. An out-of-State seller who is required to collect the Illinois Use Tax on deliveries made into Illinois, must either charge tax or document the resale exemption it makes a drop shipment in Illinois of tangible personal property which its purchaser purchased for resale purposes and directed to be delivered to an Illinois customer. (This is a GIL.)

94-0448 10/07/1994 Packing materials which are sold to purchasers who will transfer ownership of the packing materials to their customers together with ownership of the tangible personal property contained in the materials, may be purchased for resale. (This is a GIL.)

94-0451 10/07/1994 Purchase order and invoice forms used by a seller cannot be purchased for resale. Whether a label can be purchased tax exempt as a sale for resale depends upon whether the label can be considered a part of the packaging which is transferred by the purchaser to his customer along with the tangible personal property being sold. A label is considered part of the packaging when it is primarily of benefit and utility to the ultimate purchaser of the item to which the label is attached. However, when the label is primarily for the benefit of the seller of the item, the label is taxable. (This is a GIL.)

94-0519 11/22/1994 This letter sets out when a retailer is required to register with the State and document sales for resale. (This is a GIL.)

94-0545 12/02/1994 The purchase of five gallon plastic bottles by a bottled drinking water company may qualify for the resale exemption if the ownership of the bottles is transferred with the property contained in the bottles. (This is a GIL.)

94-0546 12/02/1994 Postage and parcel tapes which are sold to customers who use the tapes to apply postage and freight charges to letters and parcels are considered to be consumable supplies. Since the tapes are primarily used in sending or shipping items, and not in the manufacturing or packaging of the items, the purchase of the tapes is subject to Retailers' Occupation Tax. (This is a GIL.)

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94-0569 12/12/1994 In a drop shipment situation, the purchaser must
\$1.25 provide the seller with a Certificate of Resale documenting the fact that the sale to purchaser (with delivery in Illinois) is a sale for resale. While a registration/resale number on a Certificate of Resale is preferred, the purchaser can also provide "other evidence" on the resale certificate that the sale was for resale.

94-0590 12/14/1994 In order for a sale for resale to qualify for
\$1.25 exemption from Retailers' Occupation Tax, the seller must keep on file a valid Certificate of Resale. Acceptance of a valid Certificate of Resale relieves the seller of liability with respect to the purchaser's use of the property purchased. (This is a GIL.)

SALE OF SERVICE

94-0420 10/05/1994 The purchase of tangible personal property that is
\$1.25 transferred by a serviceman to a service customer may result in either Service Occupation Tax liability or Use Tax liability for the serviceman, depending upon which tax base the serviceman chooses to calculate his or her liability. (This is a GIL.)

94-0424 10/05/1994 Gross receipts representing charges for oil tank
\$1.25 cleaning services in which no tangible personal property is transferred incident to those services are not subject to Retailers' Occupation Tax or Use Tax (sales tax) in Illinois. (This is a GIL.)

94-0431 10/05/1994 The purchase of tangible personal property that is
\$1.50 transferred to service customers of an auto body shop may result in either Service Occupation Tax liability or Use Tax liability for the serviceman, depending upon which tax base the serviceman chooses to calculate his liability. (This is a GIL.)

94-0433 10/06/1994 A serviceman is taxed on tangible personal property
\$1.25 transferred as an incident of the sale of service. The purchase of tangible personal property that is transferred to the service customer may result in either Service Occupation Tax liability or Use Tax liability for the serviceman, depending upon which tax base he chooses to calculate his liability. He may calculate his tax base in one of four ways: 1. separately stated selling price; 2. 50% of serviceman's entire bill; 3. SOT on his cost price if he is a registered de minimus serviceman; or, 4. Use Tax on his cost price if he is an unregistered de minimus serviceman. (This is a GIL.)

94-0463 10/18/1994 The purchase of tangible personal property that is

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\$1.75 transferred by a serviceman to a service customer may result in either Service Occupation Tax liability or Use Tax liability for the serviceman, depending upon which tax base the serviceman chooses to calculate his or her liability. (This is a GIL.)

94-0524 11/22/1994 The Service Occupation Tax does not apply to sales of
\$1.50 machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. (This is a GIL.)

94-0532 11/02/1994 The glass repair and replacement referral service
\$1.75 described in the letter is not subject to Service Occupation Tax liability on the referral fee charged to Illinois glass repair shops. (This is a PLR.)

94-0533 11/02/1994 This letter describes the tax liability incurred by a
\$1.25 primary serviceman that contracts with secondary servicemen in Illinois to perform services for the primary serviceman's customers. (This is a GIL.)

94-0540 11/10/1994 This letter explains some of the potential tax
\$1.50 liabilities of both a primary and secondary serviceman when the primary serviceman makes sales of service to a federal entity and utilizes a subserviceman to do so (multi-service situation). (This is a GIL.)

94-0549 12/02/1994 The purchase of tangible personal property that is
\$1.25 transferred to a service customer may result in either Service Occupation Tax liability or Use Tax liability for the serviceman, depending upon whether the serviceman qualifies for de minimus treatment. (This is a GIL.)

94-0557 12/07/1994 A serviceman may calculate his SOT tax base in one of
\$1.50 four ways: 1. separately stated selling price of tangible personal property transferred incident to service; 2. 50% of serviceman's entire bill; 3. SOT on his cost price if he is a registered de minimus serviceman; or, 4. Use Tax on his cost price if he is a de minimus serviceman not registered as a retailer under Section 2a of the Retailers' Occupation Tax Act. (This is a GIL.)

94-0577 12/13/1994 There are four methods by which the Service
\$1.75 Occupation Tax base can be determined. (This is a GIL.)

94-0621 12/30/1994 If no tangible personal property is transferred
\$1.25 incident to the sale of a service, no Retailers' Occupation Tax or Service Occupation Tax is incurred. (This is a GIL.)

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94-0622 12/30/1994 The purchase of tangible personal property that is transferred by a serviceman to a service customer may result in either Service Occupation Tax liability or Use Tax liability for the serviceman, depending upon which tax base the serviceman chooses to calculate his or her liability. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

94-0429 10/05/1994 A one time service fee for activation of a beeper is includable as part of the "gross charges" subject to Telecommunications Excise Tax because it represents an amount paid for the privilege of originating or receiving telecommunications in this State. (This is a GIL.)

94-0464 10/18/1994 Services described in letter are considered to be value-added based upon information provided and are not subject to tax.

94-0477 10/24/1994 A long distance provider incurs Telecommunications Excise Tax liability when it sells the phone service. The Telecommunications Excise Tax is imposed on the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith. In order to certify that its purchases of telecommunications are for resale, the provider must apply to the Department for a resale number. (This is a GIL.)

94-0510 11/21/1994 This letter answers questions concerning the application of Telecommunications Excise Tax to certain pager rental fees. (This is a GIL.)

94-0597 12/21/1994 The Telecommunications Excise Tax does not apply to the granting of credits. The Tax only applies to the gross charges for intrastate or interstate telecommunications that originated or were received in Illinois. The Tax is incurred at the time when these telecommunications are originated or received. The amount of the telecommunications charges that the credit is redeemed for must include any amount of Illinois Telecommunications Excise Tax that has been incurred. (This is a GIL.)

94-0598 12/22/1994 Repeaters are subject to the Telecommunications Excise Tax. (This is a GIL.)

94-0611 12/29/1994 Charges for services that are provided by a telecommunications retailer which are necessary for, or are directly related to, the retailer's provision of telecommunications to customers are included in the gross charges subject to Telecommunications Excise Tax. (This is a GIL.)

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USE TAX

94-0413 10/03/1994 A taxpayer is entitled to a credit for Use Tax already paid to Illinois upon evidence of payment of Use Tax to another state on a purchase if such tax paid to another state was a proper tax and the claim is timely filed in Illinois. Credit is available only to the extent of payment in the other state. (This is a GIL.)

94-0426 10/05/1994 The lessor of tangible personal property incurs Use Tax on the lessor's cost price of the property that is being leased (except for automobiles under leases of a year or less). Since the lessor is considered the end user of the property and has paid the Use Tax, no Retailers' Occupation Tax is imposed upon the rental receipts and the lessee incurs no Use Tax liability. (This is a GIL.)

94-0430 10/05/1994 The lessor of tangible personal property incurs Use Tax on the lessor's cost price of the property that is being leased (except for automobiles under leases of a year or less). Since the lessor is considered the end user of the property and has paid the Use Tax, no Retailers' Occupation Tax is imposed upon the rental receipts and the lessee incurs no Use Tax liability. (This is a GIL.)

94-0480 10/25/1994 An aircraft seller incurs a Use Tax liability when he purchases an aircraft for resale purposes without properly documenting the resale exemption. (This is a GIL.)

94-0481 10/26/1994 Charges for an extended warranty or maintenance agreement are not subject to Retailers' Occupation Tax. The serviceman providing services under those agreements must pay Use Tax to his supplier on the cost price of the tangible personal property that is transferred incident to the completion of the maintenance agreements. (This is a GIL.)

94-0505 11/18/1994 Tangible personal property purchased by an advertiser for advertising purposes is subject to Retailers' Occupation Tax and Use Tax. (This is a GIL.)

94-0541 12/01/1994 Advertisements by retailers which state that a purchaser may deduct the equivalent their sales tax do not violate the collection provisions of the Use Tax Act if they included a disclosure equivalent to the statement that sales tax will be added in accordance with appropriate tax laws (This is a GIL.)

94-0550 12/02/1994 Items purchased by a hotel for use in guest rooms are

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\$1.50 subject to Retailers' Occupation Tax. (This is a GIL.)

94-0567 12/12/1994 Out of state retailers who do not have sufficient
\$1.00 presence in the state of Illinois are not required to collect
Illinois sales tax. The Illinois user must send it to the State
him/herself.

94-0580 12/13/1994 This letter discusses several ways to account for the
\$1.50 Retailers' Occupation Tax and Use Tax when selling or giving away
cellular phones. (This is a GIL.)

94-0594 12/16/1994 Illinois allows a taxpayer to receive a credit of Use
\$1.00 Tax erroneously paid to Illinois upon evidence of payment of Use
Tax to another state on a purchase if such tax paid to another
state was a proper tax and the claim is timely filed in Illinois.
The credit is available only to the extent of payment in the
other state. (This is a GIL.)

94-0612 12/29/1994 Advertisements by retailers which state that a
\$1.00 purchaser may deduct the equivalent their sales tax do not
violate the collection provisions of the Use Tax Act if they
included a disclosure equivalent to the statement that sales tax
will be added in accordance with appropriate tax laws (This is a
GIL.)

94-0613 12/29/1994 This letter sets out the limitations periods for the
\$1.00 Department to issue Notices of Tax Liability. (This is a GIL.)

94-0618 12/30/1994 This letter sets out the guidelines concerning
\$1.50 different types of retailers in order to determine whether the
retailer should collect Illinois Use Tax. (This is a GIL.)

94-0620 12/30/1994 This letter sets out the guidelines concerning
\$1.25 different types of retailers in order to determine whether the
retailer should collect Illinois Use Tax. (This is a GIL.)

94-0623 12/30/1994 The Department's opinion is that the most important
\$1.00 element of selling is the seller's acceptance of the purchase
order. If a purchase order is accepted outside of Illinois, then
the seller is only be required to collect the general 6.25% State
rate of tax on its Illinois sales. (This is a GIL.)

VEHICLE USE TAX

94-0444 10/07/1994 The Vehicle Use Tax must be paid before transferring
\$1.25 title to a car, or evidence must be presented showing that the
transfer of the auto is exempt from tax. There are no exemptions

available for transfers between a divorced husband and wife under
the Motor Vehicle Code. (This is a GIL.)

94-0502 11/17/1994 This letter sets out the correct method for reporting
\$1.25 a sale of a vehicle that is required to be registered with the
State by a retailer that is not in the business of selling such
vehicles. (This is a GIL.)

DEPARTMENT OF PUBLIC AID

NOTICE OF PUBLIC INFORMATION

NOTICE OF REIMBURSEMENT CHANGES FOR HOSPITALS AND LONG TERM CARE FACILITIES

The Illinois Department of Public Aid is extending the rate maintenance periods for hospitals and long term care facilities which were implemented January 18, 1994, and will otherwise expire on June 30, 1995. Effective for the period July 1, 1995, to June 30, 1996, rates for hospitals and long term care facilities, including nursing facilities, facilities for persons with developmental disabilities and developmental training agencies, shall continue at the levels which were in effect on January 18, 1994. These cost containment measures are necessary to permit the Department to continue to purchase hospital and long term care services in a prudent and cost effective manner, and to prevent excessive and unnecessary expenditures. These changes will ensure the continued access to adequate health care services by Medicaid recipients.

These rate maintenance provisions are contained in proposed amendments to 89 Ill. Adm. Code 152.150 and 152.200 for hospitals and 89 Ill. Adm. Code 153.100 for long term care facilities, which were published on March 24, 1995, at 19 Ill. Reg. 4322 and 19 Ill. Reg. 4331 respectively. Related amendments regarding hospital rate appeals (89 Ill. Adm. Code 152.250) and quality assurance reviews in nursing facilities (89 Ill. Adm. Code 153.150) were also proposed and published on March 24, 1995, along with the rate maintenance provisions.

The maintenance of rates for fiscal year 1996 is expected to reduce Department expenditures by approximately \$190.7 million for hospital services, and \$154 million for long term care services. These estimated expenditure reductions represent amounts as compared to the approximate expected rates that would be calculated if the rate maintenance provisions were to expire on June 30, 1995.

If any person or entity wishes to comment on these changes, they may do so by sending comments to:

Illinois Department of Public Aid
Bureau of Rules and Regulations
100 South Grand Avenue East, Third Floor
Springfield, Illinois 62762-0001

Information regarding these changes may be reviewed at any local Public Aid office in counties other than Cook County. In Cook County, information on these changes may be reviewed at the Office of the Director, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois. The information may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AGENDA

STRATTON OFFICE BUILDING
ROOM D-1
SPRINGFIELD, ILLINOIS
9:00 A.M.
APRIL 18, 1995

NOTICES: Due to Register submittal deadlines, the Agenda below is incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at its January meeting.

It is the policy of the Committee to allow only representatives of state agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Building
Springfield, Illinois 62706

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGS

Agriculture

Agrichemical Facilities (8 Ill Adm Code 255)

-First Notice Published: 19 Ill Reg 1 - 1/6/95

-Expiration of Second Notice: 5/10/95

Lawn-care Wash Water and Rinsate Collection (8 Ill Adm Code 256)

-First Notice Published: 19 Ill Reg 13 - 1/6/95

-Expiration of Second Notice: 5/17/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AGENDA

Alcoholism and Substance Abuse

Subacute Alcoholism and Substance Abuse Treatment Services (77 Ill Adm Code 2090)

- First Notice Published: 19 Ill Reg 1156 - 2/10/95
- Expiration of Second Notice: 5/14/95

Central Management Services

Pay Plan (80 Ill Adm Code 310)

- First Notice Published: 19 Ill Reg 746 - 1/27/95
- Expiration of Second Notice Period: 4/29/95

Children and Family Services

Client Service Planning (89 Ill Adm Code 305)

- First Notice Published: 18 Ill Reg 18164 - 12/30/94
- Expiration of Second Notice Period: 5/10/95

Service Appeal Process (89 Ill Adm Code 337)

- First Notice Published: 18 Ill Reg 18168 - 12/30/94
- Expiration of Second Notice Period: 5/12/95

Commerce Commission

Applications (92 Ill Adm Code 1202)

- First Notice Published: 19 Ill Reg 522 - 1/20/95
- Expiration of Second Notice Period: 5/3/95

Fees and Taxes (92 Ill Adm Code 1205)

- First Notice Published: 19 Ill Reg 525 - 1/20/95
- Expiration of Second Notice Period: 5/3/95

Corrections

Chaplaincy (20 Ill Adm Code 425)

- First Notice Published: 19 Ill Reg 152 - 1/13/95
- Expiration of Second Notice: 4/26/95

Education

Public Schools Evaluation, Recognition and Supervision (23 Ill Adm Code 1)

- First Notice Published: 18 Ill Reg 18180 - 12/30/94
- Expiration of Second Notice: 5/10/95

Repeal of Eye Protective Devices (23 Ill Adm Code 600)

- First Notice Published: 18 Ill Reg 18176 - 12/30/94
- Expiration of Second Notice: 5/14/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AGENDA

Elections

Practice and Procedures (26 Ill Adm Code 125)

- First Notice Published: 18 Ill Reg 6509 - 5/6/94
- Expiration of Second Notice Period: 4/20/95

Employment Security

Claimant's Availability for Work, Ability to Work and Active Search for Work (56 Ill Adm Code 2865)

- First Notice Published: 18 Ill Reg 17350 - 12/9/94
- Expiration of Second Notice Period: 5/14/95

Farm Development Authority

Illinois Farm Development Authority (8 Ill Adm Code 1400)

- First Notice Published: 19 Ill Reg 1164 - 2/10/95
- Expiration of Second Notice Period: 5/17/95

Insurance

Tax Allocation (50 Ill Adm Code 942)

- First Notice Published: 18 Ill Reg 17068 - 12/2/94
- Expiration of Second Notice Period: 4/22/95

Labor

Repeal of Illinois Minimum Wage Law (56 Ill Adm Code 200)

- First Notice Published: 18 Ill Reg 16770 - 11/18/94
- Expiration of Second Notice Period: 4/26/95

Minimum Wage Law (56 Ill Adm Code 210)

- First Notice Published: 18 Ill Reg 16787 - 11/18/94
- Expiration of Second Notice Period: 4/26/95

Illinois Child Labor Law (56 Ill Adm Code 250)

- First Notice Published: 19 Ill Reg 19 - 1/6/95
- Expiration of Second Notice Period: 4/26/95

Lottery

Lottery (General) (11 Ill Adm Code 1770)

- First Notice Published: 19 Ill Reg 791 - 1/27/95
- Expiration of Second Notice Period: 4/27/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AGENDA

Nuclear Safety

Licensing Requirements for Source Material Milling Facilities (32 Ill Adm Code 332)

- First Notice Published: 18 Ill Reg 17806 - 12/16/94
- Expiration of Second Notice Period: 4/20/95

Pollution Control Board

Definitions and General Provisions (35 Ill Adm Code 211)

- First Notice Published: 18 Ill Reg 17808 - 12/16/94
- Expiration of Second Notice Period: 5/5/95

Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill Adm Code 218)

- First Notice Published: 18 Ill Reg 17823 - 12/16/94
- Expiration of Second Notice Period: 5/5/95

Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill Adm Code 219)

- First Notice Published: 18 Ill Reg 17844 - 12/16/94
- Expiration of Second Notice Period: 5/5/95

Professional Regulation

Illinois Dental Practice Act (68 Ill Adm Code 1220)

- First Notice Published: 18 Ill Reg 18196 - 12/30/94
- Expiration of Second Notice Period: 4/26/95

Public Aid

Aid to the Aged, Blind or Disabled (89 Ill Adm Code 113)

- First Notice Published: 19 Ill Reg 815 - 1/27/95
- Expiration of Second Notice Period: 5/12/95

Food Stamps (89 Ill Adm Code 121)

- First Notice Published: 18 Ill Reg 17952 - 12/23/94
- Expiration of Second Notice Period: 5/12/95

Child Support Enforcement (89 Ill Adm Code 160)

- First Notice Published: 18 Ill Reg 14296 - 9/23/94
- Expiration of Second Notice Period 5/3/95

Racing Board

Superfecta (11 Ill Adm Code 311)

- First Notice Published: 19 Ill Reg 568 - 1/20/95
- Expiration of Second Notice Period: 4/30/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AGENDA

Rehabilitation Services

Individualized Written Rehabilitation Program (IWRP) (89 Ill Adm Code 572)

- First Notice Published: 18 Ill Reg 17163 - 12/2/94
- Expiration of Second Notice Period: 5/5/95

Services (89 Ill Adm Code 590)

- First Notice Published: 18 Ill Reg 17170 - 12/2/94
- Expiration of Second Notice Period: 5/5/95

State Police Merit Board

Procedures of the Department of State Police Merit Board (80 Ill Adm Code 150)

- First Notice Published: 18 Ill Reg 16536 - 11/14/94
- Expiration of Second Notice Period: 4/20/95

EMERGENCY AND PEREMPTORY RULEMAKINGSAgriculture

Meat and Poultry Inspection Act (8 Ill Adm Code 125) (Peremptory)

- Notice Published: 19 Ill Reg 4765 - 3/24/95

Central Management Services

Pay Plan (80 Ill Adm Code 310) (Peremptory)

- Notice Published: 19 Ill Reg 2481 - 3/3/95

Pay Plan (80 Ill Adm Code 310) (Peremptory)

- Notice Published: 19 Ill Reg 3073 - 3/10/95

Pay Plan (80 Ill Adm Code 310) (Peremptory)

- Notice Published: 19 Ill Reg 5145 - 3/31/95

Children and Family Services

Background Check of Foster Family Home Applicants (89 Ill Adm Code 380)

- Notice Published: 19 Ill Reg 4753 - 3/24/95

Conservation

The Taking Of Wild Turkeys-Spring Season

- Notice Published: 19 Ill Reg 5312 - 4/7/95

Sport Fishing Regulations For The Waters Of Illinois (17 Ill Adm Code 810)

- Notice Published: 19 Ill Reg 5262 - 4/7/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AGENDA

Commercial Fishing in Lake Michigan

-Notice Published: 19 Ill Reg 5257 - 4/7/95

EducationPublic Schools Evaluation, Recognition and Supervision (23 Ill Adm Code 1)

-Notice Published: 19 Ill Reg 5137 - 3/31/95

Pollution Control BoardOrganic Material Emission Standards and Limitations for the Metro East Area (35 Ill Adm Code 219) (Emergency)

-Notice Published: 19 Ill Reg 3059 - 3/10/95

Public AidHospital Services (89 Ill Adm Code 148) (Emergency)

-Notice Published: 19 Ill Reg 3510 - 3/17/95

Medical Payment (89 Ill Adm Code 140) (Emergency)

-Notice Published: 19 Ill Reg 3529 - 3/17/95

RevenueProperty Tax Code (86 Ill Adm Code 110) (Emergency)

-Published: 19 Ill Reg 2476 - 3/3/95

Property Tax Code (86 Ill Adm Code 110) (Emergency)

-Notice Published: 19 Ill Reg 3555 - 3/17/95

AGENCY RESPONSES

Children and Family ServicesLicensing Standards for Day Care Homes (89 Ill Adm Code 406)

-First Published: 2/25/94

-Recommendation Date: 2/7/95

-Response: Agreement

Licensing Standards for Group Day Care Homes (89 Ill Adm Code 408)

-First Published: 2/25/94

-Recommendation Date: 2/7/95

-Response: Agreement

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AGENDA

Public AidMedical Payment (89 Ill Adm Code 140)

-First Published: 7/8/94

-Objection - Suspension: 11/15/94

-Response: Agreement

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of March 28, 1995 through April 3, 1995, and have been scheduled for review by the Committee at its April 18, 1995 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
5/12/95	Department of Public Aid, Food Stamps (89 Ill Adm Code 121)	12/23/94 18 Ill Reg 17952	4/18/95
5/12/95	Department of Public Aid, Aid to the Aged, Blind or Disabled (89 Ill Adm Code 113)	1/27/95 19 Ill Reg 815	4/18/95
5/12/95	Department of Children and Family Services, Service Appeal Process (89 Ill Adm Code 337)	12/30/94 18 Ill Reg 18168	4/18/95
5/14/95	Department of Alcoholism and Substance Abuse, Subacute Alcoholism and Substance Abuse Treatment Services (77 Ill Adm Code 2090)	2/10/95 19 Ill Reg 1156	4/18/95
5/14/95	Department of Employment Security, Claimant's Availability for Work, Ability to Work and Active Search for Work (56 Ill Adm Code 2865)	12/9/94 18 Ill Reg 17350	4/18/95
5/14/95	State Board of Education, Repeal of Eye Protective Devices (23 Ill Adm Code 600)	12/30/94 18 Ill Reg 18176	4/18/95
5/17/95	Illinois Farm Development Authority, Illinois Farm Development Authority (8 Ill Adm Code 1400)	2/10/95 19 Ill Reg 1164	4/18/95
5/17/95	Department of Agriculture, Lawncare Wash Water and Rinsate Collection (8 Ill Adm Code 256)	1/6/95 19 Ill Reg 13	4/18/95

PROCLAMATIONS

95-138

ILLINOIS COMMUNITY COLLEGE MONTH

Whereas, the 40 community college districts in our state provide occupational, baccalaureate transfer, adult education, and public service programs for nearly one million students every year; and

Whereas, community colleges serve more than half of all students in higher education; and

Whereas, community college students benefit from accessible, high-quality education at an affordable cost; and

Whereas, most students at Illinois' 49 community colleges remain in their home communities, contributing to their area's social and economic base; and

Whereas, community colleges are at the forefront of local economic development and workforce training efforts, serving the customized training needs of local business and industry in their communities; and

Whereas, community colleges are leaders in using telecommunications technology -- enhancing and extending classroom instruction to reach beyond the barriers of time, distance, and location; and

Whereas, the Illinois community college system is dynamic, accountable, and committed to improving the lives of students and the well-being of communities across the state;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1995 as ILLINOIS COMMUNITY COLLEGE MONTH in Illinois in honor of the 30th anniversary of our state's community college system.

Issued by the Governor March 22, 1995.

Filed by the Secretary of State March 30, 1995.

95-139

CERTIFICATION WEEK

Whereas, consumers, businesses, and the economy all benefit when practitioners delivering services strive to improve their performance; and

Whereas, one widely recognized way for practitioners to improve their performance is through voluntary study with verification through monitored testing; and

Whereas, placement professionals, who link workers with jobs, have been eligible for this recognition for the past 30 years through the Certified Personnel Consultant program operated by the National Association of Personnel Services (NAPS), which established a similar program for temporary service contractors five years ago; and

Whereas, placement professionals and temporary service contractors who have been studying to become Certified Personnel Consultants (CPC) or Certified Temporary Staffing Specialists (CTS) will be tested on May 20, 1995; and

Whereas, the study and effort toward greater professional growth exemplified by these applicants and the certification process is deserving of encouragement and recognition;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 14-20, 1995, as CERTIFICATION WEEK in Illinois.

Issued by the Governor March 23, 1995.

Filed by the Secretary of State March 30, 1995.

95-140

DOCTOR'S DAY

Whereas, DoctorFES Day, Thursday, March 30, 1995, is designed to celebrate patient care by physicians and the marvelous advances in medical care for all Illinoisans; and

Whereas, Doctor's Day reminds all Illinois residents to commit themselves to exercise and good nutrition; and

Whereas, Doctor's Day celebrates the trust which exists between the physician and the patient; and

Whereas, Doctor's Day commemorates the birthday of Crawford W. Long, M.D., a Georgia physician who first used ether anesthesia; and

Whereas, Doctor's Day was adopted by the U.S. Congress in 1958 and is celebrated each year on March 30; and

Whereas, the 11,000 physicians of the Chicago Medical Society are working together to promote the best in care for their patients;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 30, 1995, as DOCTOR'S DAY in Illinois.

Issued by the Governor March 23, 1995.

Filed by the Secretary of State March 30, 1995.

95-141

NATURAL RESOURCES CONSERVATION MONTH

Whereas, the people across this land wish to live in harmony with natural resources and wish to bequeath a better Earth for our children and grandchildren; and

Whereas, conservationists across our beautiful country work hand-in-hand with the American people to conserve all natural resources to create a healthy land; and

Whereas, leadership for conservation of natural resources on private lands is provided by a partnership of soil and water conservation districts and state conservation agencies; and

Whereas, in appreciation for the efforts of landowners and landusers to conserve our natural resources, April is the month designated to celebrate Earth Day and the 50th anniversary of America's soil and water conservation movement on private lands; and

Whereas, now is the time to increase awareness among all Americans of the importance of our natural resources;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1995 as NATURAL RESOURCES CONSERVATION MONTH in Illinois and urge all citizens to recognize the importance of conservation in our communities and join in the celebration of the land.

Issued by the Governor March 23, 1995.

Filed by the Secretary of State March 30, 1995.

95-142

SAFETY BELT LAW SIGNING/10TH ANNIVERSARY

Whereas, 1995 is the 10th anniversary year of the enactment of the Illinois Safety Belt law; and

Whereas, motor vehicle crashes are the greatest single cause of death in

the United States for every person from six to 33- years-old; and

Whereas, the lives of more than 5,300 front-seat occupants over four-years-old were saved by safety belts in 1993; and

Whereas, when used properly, lap and shoulder belts reduce the risk of fatal or serious occupant injury to front seat passengers by 45-55 percent; and

Whereas, Illinois' safety belt usage rate has increased from 16 percent to 68 percent over the past 10 years; and

Whereas, those who use their safety belts only on long trips or highway driving should know that three out of four crashes occur within 25 miles of home; and

Whereas, 48 states, the District of Columbia, Puerto Rico, and the U.S. Territories have enacted safety belt use laws; and

Whereas, through continued public awareness, education, and enforcement of safety belt laws and improved safety belt usage rates, death and serious injury can be significantly reduced; and

Whereas, this anniversary year will provide communities and organizations an opportunity to join together to work toward increasing the correct use of safety belts by focusing public attention on their life-saving benefits;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim July 1995 as the 10th anniversary of the signing of the Safety Belt Law in Illinois and encourage communities to observe this occasion with appropriate programs, ceremonies, and activities to support the efforts of enforcement agencies to increase compliance with state occupant protection laws.

Issued by the Governor March 23, 1995.

Filed by the Secretary of State March 30, 1995.

95-143

SISTER SHEILA DAY

Whereas, Sister Sheila Lyne, R.S.M., will be presented with the Anti-Defamation League's Aesculapian Award on April 5, 1995; and

Whereas, the Anti-Defamation League (ADL) is one of this nation's leading human rights agencies. For 83 years, the ADL has fought bigotry and discrimination and worked to ensure equal treatment for all Americans, regardless of race, creed, ethnic origin, or gender; and

Whereas, Sister Sheila is being honored for her outstanding professional accomplishments, concern, and commitment to the community; and

Whereas, Sister Sheila is currently Commissioner of the Chicago Department of Health and has served in that capacity since 1991. Previously she was President of Mercy Hospital and Medical Center in Chicago and has also worked as an Assistant Professor in the graduate program for psychiatric nursing at the University of Iowa; and

Whereas, Sister Sheila has been honored with numerous awards including the first Excellence in Public Service Award, sponsored by Crain's City and State, NORBIC, and Motorola;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 5, 1995, as SISTER SHEILA DAY in Illinois in honor of an exemplary American who embodies the aims for which ADL was founded and the ideals toward which it inspires.

Issued by the Governor March 23, 1995.

Filed by the Secretary of State March 30, 1995.

95-144

SOIL AND WATER STEWARDSHIP WEEK

Whereas, our well-being depends on the production of ample food, fiber, and other products of the soil; and

Whereas, the quality and quantity of these products depend on the conservation, wise use, and proper management of soil and water resources; and

Whereas, protection of our water from pollution depends on sound conservation practices; and

Whereas, soil and water conservation districts provide a practical and democratic organization through which landowners take the initiative to conserve and make proper use of these resources; and

tf Whereas, the conservation movement is carrying forward a program of soil and water conservation in cooperation with numerous agencies and countless individuals;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 30-May 6, 1995, as SOIL AND WATER STEWARDSHIP WEEK in Illinois in full appreciation of the value of our soil and water to the public welfare and in honor of those who protect those resources.

Issued by the Governor March 23, 1995.

Filed by the Secretary of State March 30, 1995.

95-145

MRS. MOLLY GRAY DAY

Whereas, the Sertoma Clubs of Springfield, Illinois, have selected Mrs. Molly Gray for their "Service to Mankind" Award for 1995; and

Whereas, Mrs. Gray has made outstanding contributions to the Lincoln Memorial Gardens, the Springfield Civic Garden Club, the Springfield Craft and Ceramics Club, the Lincoln Circle of King's Daughters, and other civic organizations over a period of many years; and

Whereas, her contributions to the ecological, artistic, educational, and environmental climate of the city make her an outstanding candidate for this award; and

Whereas, she has described her dedication to the Garden as "The Garden is my Life"; and

Whereas, with this four-club award, Mrs. Gray will then enter the competition for the award of the Mid-Illinois District of Sertoma International;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 25, 1995, as MRS. MOLLY GRAY DAY in Illinois in honor of her lifetime dedication and tireless commitment to giving and caring.

Issued by the Governor March 24, 1995.

Filed by the Secretary of State March 30, 1995.

95-146

ASSYRIAN NEW YEAR DAY

Whereas, on April 1, 1995, (the first day of Nissan, 6745 B.C.) the Assyrian community will celebrate their New Year of revival and renewal of nature; and

Whereas, the color green will dominate the New Year festivities, as it stands for "New Life"; and

Whereas, Mr. Babel Gabriel, the Midwest Regional Director of the Assyrian American National Federation, has planned many days of cultural activities to mark this New Year, which includes the Assyrian New Year Parade and Banquet; and

Whereas, the Assyrian National Council and their president, Saliba Alyo, have cosponsored an exhibit which will be displayed in the James R. Thompson Center; and

Whereas, the Assyrian community has made significant contributions in all areas of life, including education, medicine, business, the arts, and public service in Illinois; and

Whereas, the Assyrian New Year is one of the most important religious and celebrated holidays of the Assyrian community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1, 1995, as ASSYRIAN NEW YEAR DAY in Illinois.

Issued by the Governor March 27, 1995.

Filed by the Secretary of State March 30, 1995.

95-147

DAYS OF REMEMBRANCE OF THE HOLOCAUST

Whereas, 1995 marks the 50th anniversary of the victorious United States Armed Forces and the Allies defeat of the German National Socialists regime, ending the war in Europe during World War II; and

Whereas, this great military victory brought the liberation of the Nazi camps and the end of the Holocaust -- the systematic murder of Europe's Jews and the persecution of Poles, slaves, social, religious, and political dissidents, Soviet prisoners of war, homosexuals, the handicapped, and all others deemed "unworthy of life" by Nazi Germany and their collaborators; and

Whereas, the war-hardened United States soldiers not only liberated the Nazi camps but also extended their compassion and generosity to those few survivors of these camps; and

Whereas, Americans recognize that each individual citizen is responsible for eternal vigilance against all tyranny and for speaking out against such tyranny; and

Whereas, pursuant to an Act of Congress, the United States Holocaust Memorial Museum designates the Days of Remembrance of the Victims of the Holocaust as Sunday, April 23 through Sunday, April 30, 1995;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 23-30, 1995, as DAYS OF REMEMBRANCE OF THE HOLOCAUST in Illinois in memory of the victims, survivors, and their liberators and in hope that we, as a state and as individual citizens, will strive to overcome prejudice, hatred, and indifference through learning, tolerance, and remembrance.

Issued by the Governor March 27, 1995.

Filed by the Secretary of State March 30, 1995.

95-148

MACON SPEEDWAY DAY

Whereas, this year marks the 50th anniversary of the Macon Speedway; and

Whereas, featured races include NASCAR stock cars, midgets, and sprint

cars and the facility will host more than 30 races in 1995; and

Whereas, the Macon Speedway will honor its 50th anniversary by hosting the "Big 10 Race Series." The series will be for the NASCAR late models and will feature 10 50-lap races paying at least \$1,000 to win and will have a \$5,000 series point fund; and

Whereas, on June 3, 1995, a Hall of Fame Reunion Night will be held at the Speedway. Drivers from throughout the past 50 years will be honored with a variety of special programs; and

Whereas, Bob Sargent, the owner of the Speedway, is entering his 12th season promoting this exciting stock car facility. Sargent promotes several other Illinois races including the Illinois Fall Nationals and races at the Illinois State Fair and the DuQuoin State Fair;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1, 1995, as MACON SPEEDWAY DAY in Illinois.

Issued by the Governor March 27, 1995.

Filed by the Secretary of State March 30, 1995.

95-149

RURAL ELECTRIC AND TELEPHONE YOUTH DAY

Whereas, for the 36 years, the Electric and Telephone Cooperatives of Illinois has sponsored a paid tour of Washington, DC, for approximately 75 outstanding Illinois high school students who are selected on the basis of essay and youth leadership contests sponsored by member cooperatives; and

Whereas, students from Illinois, along with nearly 1,500 contest winners from other states, will have an opportunity to witness their federal government in action during the "Youth to Washington" tour June 16-23, 1995; and

Whereas, in an effort to provide a broader educational experience for more students throughout the state, the Electric and Telephone Cooperatives of Illinois will also sponsor a trip to our state capital May 10 for 250-300 contest finalists;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 10, 1995, as RURAL ELECTRIC AND TELEPHONE YOUTH DAY in Illinois.

Issued by the Governor March 27, 1995.

Filed by the Secretary of State March 30, 1995.

95-150

DELTA SIGMA THETA DAYS

Whereas, Delta Sigma Theta Sorority, Inc., a worldwide public service organization, was founded at Howard University in 1913; and

Whereas, since its inception, Delta Sigma Theta Sorority has been in the forefront of social change, beginning with the vision of the sorority's 22 founders who participated in the suffragette march; and

Whereas, through the involvement of its Delta chapters, the sorority has lead the charge for social change and for the development of public policy; and

Whereas, their ideals of service and commitment to improving the quality of life for African Americans have withstood the test of time; and

Whereas, the leadership of Delta Sigma Theta Sorority has historically provided consultation to Congress, the White House, and the Statehouse by using their collective strengths toward continuing the struggle for economic, social, and political change; and

Whereas, in Illinois there are 12 undergraduate chapters at colleges and universities and 13 graduate chapters throughout the State of Illinois; and

Whereas, commencing on March 31 and April 1, 1995, the Illinois State Council of Delta Sigma Theta will hold a statewide founders celebration at the State Capitol with the theme "The Delta Legacy...A Journey of Historical Significance;"

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 31-April 1, 1995, as DELTA SIGMA THETA DAYS in Illinois and extend my best wishes to Sharon Chapman, Midwest Regional Director, Ruth Denny, President of the State Council, and all of the members of the Illinois delegation. I commend all of you for the rich legacy of service that you continue to provide to the citizens of Illinois.

Issued by the Governor March 28, 1995.

Filed by the Secretary of State March 30, 1995.

95-151

GERMAN DAY

Whereas, the United German American Societies of Greater Chicago will be celebrating its 75th anniversary, as well as the 30th anniversary of the Von Steuben Parade, on March 25, 1995; and

Whereas, the United German American Societies of Greater Chicago is the umbrella organization for German American clubs in the Chicago area. These clubs promote the German heritage and culture through traditional song, dance, and ethnic schools; and

Whereas, the United German American Societies of Greater Chicago has sponsored the German-American Fest and the Von Steuben Parade every year since they were established; and

Whereas, the United German American Societies of Greater Chicago sponsors an annual celebration of German-American Day which is on October 6th; and

Whereas, a banquet will be held at the Rosemont Convention Center, Donald E. Stephens Ballroom, on March 25, 1995, to commemorate the 75th anniversary of German Day and the 30th anniversary of the Von Steuben Parade; and

Whereas, the German-American community has remained an integral part of the ethnic fabric that constitutes much of the State of Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 25, 1995, as GERMAN DAY in Illinois.

Issued by the Governor March 28, 1995.

Filed by the Secretary of State March 30, 1995.

95-152

MUSEUM OF SCIENCE AND INDUSTRY DAY

Whereas, on Tuesday, March 28, 1995, the Museum of Science and Industry in Chicago will officially open the nation's first major permanent educational exhibit on the science of HIV and AIDS; and

Whereas, this museum has been a world-renowned institution for education in the scientific and technological fields including medicine for more than 60 years; and

Whereas, the museum has distinguished itself as a leader in AIDS education, having demonstrated a high degree of initiative and commitment in developing this exhibit entitled "AIDS: The War Within;" and

Whereas, Abbott Laboratories, a Chicago-based firm, has donated \$1 million to the project and provided consultative services through their expert staff; and

Whereas, "AIDS: The War Within" will enable students and their families to learn about research, treatment, and prevention of HIV and AIDS through technologically advanced exhibitry including hands-on interactive units and interpretive displays, and will provide an important new resource for those who are engaged in the fight against HIV and AIDS through education; and

Whereas, the exhibit also will help build understanding and compassion for persons with HIV and AIDS and those caring for them;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 28, 1995, as MUSEUM OF SCIENCE AND INDUSTRY DAY in Illinois.

Issued by the Governor March 28, 1995.

Filed by the Secretary of State March 30, 1995.

95-153

NATURAL RESOURCES STEWARDSHIP MONTH

Whereas, Illinois is blessed with outstanding natural, cultural and historical resources; and

Whereas, the 11.5 million people who make up Illinois' population depend on this state's resources for recreation and quality of life; and

Whereas, nearly 38 million people visited public sites throughout Illinois encompassing more than 400,000 acres; and

Whereas, Illinois needs to take care of its precious resources on private as well as public land; and

Whereas, the celebration of the 25th anniversary of Earth Day provides a reminder to all citizens that the future of our natural wonders depends on the commitment of all Illinoisans to whom they belong; and

Whereas, there is a need to develop in all Illinois citizens an awareness of our natural resources, which will lead to enhanced knowledge and a desire to actively work for their betterment; and

Whereas, Conservation Congress, Illinois' constituency-based advisory body, continues to emphasize the importance of educating the public about all of Illinois' resources and the importance of caring for them properly;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1995 as NATURAL RESOURCES STEWARDSHIP MONTH in Illinois and call upon citizens to undertake efforts that will not only increase their understanding and appreciation of our environment, but will improve the world around them. Together we can make a difference and our efforts will provide a legacy for future generations.

Issued by the Governor March 28, 1995.

Filed by the Secretary of State March 30, 1995.

95-154

ST. JOSEPH COUNCIL AND COURT #93 OF THE KNIGHTS AND LADIES OF

PETER CLAVER DAY

Whereas, St. Peter Claver became a friend and advocate to the unfortunate, administered to the ill, fed the hungry, and converted many to Christianity; and

Whereas, St. Joseph Council #93 was established on February 4, 1945, and

St. Joseph Court #93 was established on April 8, 1945. The Knights and Ladies of Peter Claver have followed in the footsteps of St. Peter Claver for the past 50 years by promoting Claverism to the church, community, and its members; and

Whereas, the members of St. Joseph Council and Court #93 of the Knights and Ladies of Peter Claver participate in parish activities, promote civic improvements, contribute to numerous worthwhile causes, and provide recreational activities and youth development programs; and

Whereas, St. Joseph Council and Court #93 of the Knights and Ladies of Peter Claver provides social and intellectual fellowship for its members, as well as providing proper guidance and participation in the ever changing structure of our social and economic life, through this Catholic lay organization;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 21, 1995, as ST. JOSEPH COUNCIL AND COURT #93 OF THE KNIGHTS AND LADIES OF PETER CLAVER DAY in Illinois in honor of the many contributions they have made and urge all citizens to recognize the Knights and Ladies of St. Joseph Council and Court #93 for its efforts in promoting Christianity and strength in the church and community.

Issued by the Governor March 28, 1995.

Filed by the Secretary of State March 30, 1995.

95-155

ALCOHOL AWARENESS MONTH

Whereas, underage drinking is the number one drug problem among the nation's youth; and

Whereas, use of alcohol is associated with the leading causes of death and injury among youth, including motor vehicle crashes, homicides, and suicides; and

Whereas, juvenile crime, violence, and poor academic performance are often linked with underage drinking; and

Whereas, purchase of alcohol by people under the age of 21 is illegal in all 50 states; and

Whereas, passage of other laws to reduce underage drinking and enforcement of those laws is a community and state responsibility;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1995 as ALCOHOL AWARENESS MONTH in Illinois.

Issued by the Governor March 29, 1995.

Filed by the Secretary of State March 30, 1995.

95-156

HIGH BLOOD PRESSURE AND STROKE AWARENESS MONTH

Whereas, nearly 3.5 million Illinoisans are among the 50 million Americans who have an increased risk of illness and death due to high blood pressure; and

Whereas, stroke is the third leading cause of death in Illinois and a major cause of adult disability; and

Whereas, high blood pressure is a known contributing factor to heart attacks, strokes, and kidney failure; and

Whereas, for 22 years, Americans have worked together in local, state, and national organizations to increase awareness and control of these serious

health problems; and

Whereas, these efforts and the work of the National High Blood Pressure Education Program and the National Stroke Association have helped lower the stroke mortality rate by 57 percent and the coronary heart disease rate by 45 percent since 1972; and

Whereas, the Illinois Department of Public Health has awarded Preventive Health and Health Services Block Grant Funds to 74 local health departments for cardiovascular disease prevention programs;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1995 as HIGH BLOOD PRESSURE AND STROKE AWARENESS MONTH in Illinois and urge all Illinoisans to have their blood pressure checked, take appropriate measures to keep it under control, and learn how to reduce their risks for stroke.

Issued by the Governor March 29, 1995.

Filed by the Secretary of State March 30, 1995.

95-157

HUMAN SERVICES WEEK

Whereas, a disability, whether physical or mental, does not mean the end of a person's productive life; and

Whereas, human service organizations are available to help Illinois citizens adapt to new methods of achieving productive and fulfilling lives; and

Whereas, the many support services within a human service organization provide the assistance necessary to help persons with disabilities achieve self-sufficiency; and

Whereas, dedicated, professional individuals provide a foundation for citizens to achieve their goals;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim September 18-24, 1995, as HUMAN SERVICES WEEK in Illinois and commend these organizations, their staff and volunteers' dedication which benefit all citizens of the state.

Issued by the Governor March 29, 1995.

Filed by the Secretary of State March 30, 1995.

95-158

LAKE AND WATERSHED MANAGEMENT MONTH

Whereas, Illinois' 3,000 lakes, 83,000 ponds, and their adjacent lands provide numerous recreational use opportunities such as fishing, hunting, boating, swimming, canoeing, sailing, picnicking, hiking, bird watching, and general aesthetic enjoyment; and

Whereas, these recreational activities conducted on or near Illinois lakes generate an estimated \$1.78 billion to the state's economy each year; and

Whereas, the majority of Illinois lakes assessed by the Illinois Environmental Protection Agency in 1994 exhibited impaired uses primarily due to sedimentation, turbidity, excessive aquatic plant growth, degraded fisheries, and chemical contamination; and

Whereas, the quality and usability of Illinois lakes can most effectively be improved by implementation of comprehensive lake and watershed management strategies; and

Whereas, state soil conservation cost-share programs have enabled the completion of more than 7,400 projects that have prevented approximately 3

million tons of soil erosion from Illinois farmlands; and

Whereas, the State of Illinois enacted the Illinois Lake Management Program Act (ILMPA), and subsequently developed the ILMPA - Administrative Framework Plan, which outlines a blueprint of enhanced educational and technical assistance, monitoring and research, and financial assistance programs targeted at comprehensive lake management; and

Whereas, "Conservation 2000" legislation proposes funding for implementation of the recommendations contained in the ILMPA - Administrative Framework Plan and for various watershed protection and natural resource enhancement initiatives;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1995 as LAKE AND WATERSHED MANAGEMENT MONTH in Illinois to recognize the value of our water and soil resources, the need to protect and improve Illinois' lakes and ponds, and the excellent cooperation developed through Illinois' lake and watershed management programs.

Issued by the Governor March 29, 1995.

Filed by the Secretary of State March 30, 1995.

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AR - Adopted Repealer	PP - Prohibited Filing Order by JCAR*
C - Notice of Corrections	PP - Peremptory or Court Ordered Rules
CC - Codification Changes	PR - Proposed Repealer
E - Emergency Rule	R - Refusal to meet JCAR* Objection
ER - Emergency Repealer	RC - Statement of Recommendation
M - Modification to meet JCAR*	S - Suspension ordered by JCAR*
Objections	W - Withdrawal to meet JCAR*
O - JCAR* Statement of Objections	Objections
RQ - Request for Correction	MR - Modification and Refusal
EC - Expedited Corrections	
*Joint Committee on Administrative Rules	

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-7017.

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TYPE OF RULE MAKING

am = amend to existing Section
cc = codification changes
n = New Section
r = repeal of existing Section
re = reclassified
= renumbered

ACTION CODE

A = Adopted Rule
E = Emergency
P = Proposed Rule
PP = Peremptory
M = Modification
W = Withdrawal
CC = Codification Changes
RC = Recommendations
EC = Expedited Correction
C = Correction
R = Refusal

PF = Prohibited Filing

S = Suspension

O = ICAR Objection

F = Failure to Remedy Objections
Objection

RC = Recommendations

EC = Expedited Correction

C = Correction

R = Refusal

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950.27	am	(P-1414)	am	(P-3131)	am
950.28	am	(P-1414)	am	(P-3131)	am
950.29	am	(P-1414)	am	(P-3131)	am
950.30	am	(P-1414)	am	(P-3131)	am
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950.32	am	(P-1414)	am	(P-3131)	am
950.33	am	(P-1414)	am	(P-3131)	am
950.34	am	(P-1414)	am	(P-3131)	am
950.35	am	(P-1414)	am	(P-3131)	am
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950.40	am	(P-1414)	am	(P-3131)	am
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950.83	am	(P-1414)	am	(P-3131)	am
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2764.50	n	(E-376) (P-4367)	611.311	am	(P-3769)
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2766.20	n	(P-1275)	611.360	am	(P-4215)
2766.30	n	(P-1275)	611.360	am	(P-4215)
2766.40	n	(P-1275)	611.480	am	(P-4215)
2766.50	n	(P-1275)	611.490	am	(P-4215)
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			611.600	am	(P-4215)
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372.310	n	(P-4524/94; A-1297)	691.306	am	(P-3833)
372.320	n	(P-4524/94; A-1297)	691.401	n	(P-3833)
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372.530	n	(P-4524/94; A-1297)	703.183	am	(P-3833)
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611.102	am	(P-4785)	703.203	am	(P-3833)
611.110	am	(P-4785)	703.213	am	(P-3833)
611.111	am	(P-4785)	705.128	am	(P-3833)
611.112	am	(P-4785)	720.111	am	(P-3833)
611.113	am	(P-4785)	720.121	am	(P-3833)
611.125	am	(P-4785)	720.131	am	(P-3833)
611.130	am	(P-4785)	720.103	am	(P-3833)
611.201	am	(P-4785)	721.102	am	(P-3833)
611.212	am	(P-4785)	721.103	am	(P-3833)
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725.987	n	P-38333	870.306	em	P-21441	170.422	n	P-3106/94.A.54671
725.988	n	P-38333	870.307	r	P-21441	170.423	n	P-3106/94.A.54671
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726.120	em	P-42668	871.102	em	P-21033	170.428	n	P-3106/94.A.54671
726.123	em	P-42668	871.201	em	P-21033	170.430	em	P-3106/94.A.54671
726.126	em	P-42668	871.202	em	P-21033	170.431	em	P-3106/94.A.54671
726.Ap.A	em	P-42668	871.203	em	P-21033	170.440	em	P-3106/94.A.54671
726.Ap.B	em	P-42668	871.205	em	P-21033	170.441	em	P-3106/94.A.54671
726.Ap.C	em	P-42668	871.301	em	P-21033	170.442	n	P-3106/94.A.54671
726.Ap.E	em	P-42668	871.302	em	P-21033	170.445	em	P-3106/94.A.54671
726.Ap.M	em	P-42668	871.303	em	P-21033	170.460	em	P-3106/94.A.54671
726.101	em	P-39251	871.305	em	P-21033	170.470	em	P-3106/94.A.54671
728.102	em	P-39251	871.402	em	P-21033	170.480	em	P-3106/94.A.54671
728.107	em	P-39251	871.403	em	P-21033	170.481	n	P-3106/94.A.54671
728.109	em	P-39251	871.501	em	P-21033	170.490	em	P-3106/94.A.54671
728.130	em	P-39251	871.502	em	P-21033	170.500	em	P-3106/94.A.54671
728.138	n	P-39251	871.503	em	P-21033	170.510	em	P-3106/94.A.54671
728.141	em	P-39251	871.601	em	P-21033	170.520	em	P-3106/94.A.54671
728.142	em	P-39251	871.602	em	P-21033	170.530	em	P-3106/94.A.54671
728.143	em	P-39251	871.603	em	P-21033	170.540	em	P-3106/94.A.54671
728.145	em	P-39251	871.604	r	P-21033	170.541	n	P-3106/94.A.54671
728.146	em	P-39251	871.605	em	P-21033	170.542	n	P-3106/94.A.54671
728.147	em	P-39251	871.Ap.A	em	P-21033	170.543	n	P-3106/94.A.54671
728.148	n	P-39251	871.Ap.B	em	P-21033	170.544	n	P-3106/94.A.54671
728.Ap.D	n	P-39251	871.Ap.B	em	P-21033	170.545	n	P-3106/94.A.54671
728.Ap.E	em	P-39251	110.40	em	P-14271/94.A.441	170.550	em	P-3106/94.A.54671
728.Ap.J	em	P-39251	110.90	em	P-14271/94.A.441	170.560	em	P-3106/94.A.54671
728.76.A	em	P-39251	160.10	em	P-14276/94.A.491	170.570	em	P-3106/94.A.54671
728.76.B	em	P-39251	160.10	em	P-14276/94.A.491	170.580	em	P-3106/94.A.54671
728.76.C	em	P-39251	160.40	em	P-14276/94.A.491	170.590	em	P-3106/94.A.54671
728.76.D	em	P-39251	160.90	em	P-14276/94.A.491	170.600	em	P-3106/94.A.54671
728.76.E	em	P-39251	180.165	em	P-16764/94.A.28261	170.610	em	P-3106/94.A.54671
728.76.F	n	P-39251				170.620	em	P-3106/94.A.54671
728.76.G	n	P-39251				170.630	em	P-3106/94.A.54671
728.76.T	n	P-39251	120.20	em	P-25571	170.640	em	P-3106/94.A.54671
730.104	em	P-43091	120.30	em	P-25571	170.650	em	P-3106/94.A.54671
730.105	em	P-43091	120.35	em	P-25571	170.660	em	P-3106/94.A.54671
730.110	em	P-43091	120.600	em	P-25571	170.670	em	P-3106/94.A.54671
730.132	em	P-43091	120.1041	em	P-25571	170.672	em	P-3106/94.A.54671
730.133	em	P-43091	170.10	em	P-3106/94.A.54671	170.700	em	P-3106/94.A.54671
730.151	em	P-43091	170.20	r	P-3106/94.A.54671	170.700	#	P-3106/94.A.54671
738.117	em	P-37668	170.40	r	P-3106/94.A.54671	170.705	n	P-3106/94.A.54671
739.110	em	P-42398	170.41	r	P-3106/94.A.54671	170.710	n	P-3106/94.A.54671
870.101	em	P-21441	170.50	r	P-3106/94.A.54671	170.720	n	P-3106/94.A.54671
870.102	em	P-21441	170.60	r	P-3106/94.A.54671	170.730	n	P-3106/94.A.54671
870.201	em	P-21441	170.65	r	P-3106/94.A.54671	170.740	n	P-3106/94.A.54671
870.202	em	P-21441	170.70	r	P-3106/94.A.54671	170.750	n	P-3106/94.A.54671
870.203	em	P-21441	170.71	r	P-3106/94.A.54671	170.760	n	P-3106/94.A.54671
870.204	em	P-21441	170.72	r	P-3106/94.A.54671	170.770	n	P-3106/94.A.54671
870.205	em	P-21441	170.76	r	P-3106/94.A.54671	170.780	n	P-3106/94.A.54671
870.206	em	P-21441	170.90	r	P-3106/94.A.54671	170.790	n	P-3106/94.A.54671
870.207	r	P-21441	170.105	r	P-3106/94.A.54671	170.795	n	P-3106/94.A.54671
870.208	em	P-21441	170.106	r	P-3106/94.A.54671	170.800	em	P-3106/94.A.54671
870.209	em	P-21441	170.107	r	P-3106/94.A.54671	170.810	em	P-3106/94.A.54671
870.210	em	P-21441	170.108	r	P-3106/94.A.54671	170.820	em	P-3106/94.A.54671
870.211	em	P-21441	170.110	em	P-3106/94.A.54671	170.830	em	P-3106/94.A.54671
870.212	em	P-21441	170.110	em	P-3106/94.A.54671	170.850	em	P-3106/94.A.54671
870.213	em	P-21441	170.410	em	P-3106/94.A.54671	170.860	em	P-3106/94.A.54671
870.301	em	P-21441	170.410	em	P-3106/94.A.54671	170.880	em	P-3106/94.A.54671

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TITLE 41 (CONT'D)			TITLE 44 (CONT'D)			TITLE 50 (CONT'D)			TITLE 52 (CONT'D)			TITLE 62 (CONT'D)			TITLE 68 (CONT'D)		
170,880	(P-91,05/94; A-5467)	am	(P-2087)	925.60	am	(P-2587)	240,780	am	(P-2215)	1795.6	am	(P-1670)	1240.45	am	(P-14567/94; A-954)		
950,500	f	(P-2087)	925.60	am	(P-2587)	240,780	am	(P-2215)	1795.6	am	(P-1670)	1240.45	am	(P-14567/94; A-954)			
170,910	(P-91,05/94; A-5467)	am	(P-2087)	925.60	am	(P-2587)	240,780	am	(P-2215)	1795.6	am	(P-1670)	1240.45	am	(P-14567/94; A-954)		
950,520	f	(P-2087)	925.60	am	(P-2587)	240,780	am	(P-2215)	1795.6	am	(P-1670)	1240.45	am	(P-14567/94; A-954)			
5000,310	am	(P-5057/94; A-585)	925.90	am	(P-2587)	240,830	am	(P-2215)	1800.5	am	(P-1474)	1240.50	am	(P-14567/94; A-954)			
TITLE 47			TITLE 47			TITLE 47			TITLE 47			TITLE 47					
170,840	(P-91,05/94; A-5467)	n	(P-1452; E-1921)	925.110	am	(P-2587)	240,880	am	(P-2215)	1800.20	am	(P-1474)	1240.50	am	(P-14567/94; A-954)		
366,101	n	(P-1452; E-1921)	925.110	am	(P-2587)	240,880	am	(P-2215)	1800.20	am	(P-1474)	1240.50	am	(P-14567/94; A-954)			
366,102	n	(P-1452; E-1921)	925.120	n	(P-2587)	240,890	am	(P-2215)	1816.13	am	(P-1569)	1240.85	am	(P-14567/94; A-954)			
366,103	n	(P-1452; E-1921)	925.130	n	(P-2587)	240,891	am	(P-2215)	1816.15	am	(P-1569)	1240.85	am	(P-14567/94; A-954)			
366,104	n	(P-1452; E-1921)	925.140	am	(P-2587)	240,895	am	(P-2215)	1816.22	am	(P-1569)	1240.85	am	(P-14567/94; A-954)			
366,105	n	(P-1452; E-1921)	925.150	am	(P-2587)	240,930	am	(P-2215)	1816.41	am	(P-1569)	1240.86	n	(P-14567/94; A-954)			
366,106	n	(P-1452; E-1921)	925.160	am	(P-2587)	240,930	am	(P-2215)	1816.46	am	(P-1569)	1240.86	n	(P-14567/94; A-954)			
366,107	n	(P-1452; E-1921)	925.170	f	(P-17352/94; A-5255)	240,950	am	(P-2215)	1816.79	am	(P-1569)	1255.10	f	(P-2648)			
366,108	n	(P-1452; E-1921)	927.20	f	(P-17352/94; A-5255)	240,950	am	(P-2215)	1816.97	am	(P-1569)	1255.15	n	(P-2648)			
366,109	n	(P-1452; E-1921)	927.20	f	(P-17352/94; A-5255)	240,1005	f	(P-2215)	1816.116	am	(P-1569)	1255.20	n	(P-2648)			
366,110	n	(P-1452; E-1921)	2012.30	am	(P-17352/94; A-5255)	240,1005	f	(P-2215)	1816.117	am	(P-1569)	1255.30	am	(P-2648)			
366,111	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,112	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,113	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,114	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,115	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,116	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,117	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,118	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,119	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,120	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,121	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,122	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,123	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,124	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,125	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,126	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,127	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,128	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,129	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,130	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,131	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,132	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,133	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,134	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,135	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,136	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,137	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,138	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,139	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,140	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,141	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,142	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,143	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,144	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,145	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,146	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,147	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,148	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,149	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,150	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,151	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,152	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,153	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,154	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,155	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,156	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,157	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,158	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,159	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,160	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,161	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,162	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,163	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,164	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,165	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,166	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
366,167	n	(P-1452; E-1921)	2012.32	am	(P-17352/94; A-5255)	240,1010	f	(P-2215)	1816.133	am	(P-1569)	1255.40	am	(P-2648)			
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878.350	r	(P-16039/94; A-5054)	885.150	r	(P-16163/94; A-5082)
878.400	r	(P-16039/94; A-5054)	885.150	r	(P-16163/94; A-5082)
878.450	r	(P-16039/94; A-5054)	885.200	r	(P-16163/94; A-5082)
878.500	r	(P-16039/94; A-5054)	885.200	r	(P-16163/94; A-5082)
878.550	r	(P-16039/94; A-5054)	885.200	r	(P-16163/94; A-5082)
879.00	n	(P-16111/94; A-5062)	885.500	r	(P-16163/94; A-5082)
879.20	n	(P-16111/94; A-5062)	885.500	r	(P-16163/94; A-5082)
879.30	n	(P-16111/94; A-5062)	885.500	r	(P-16163/94; A-5082)
879.40	n	(P-16111/94; A-5062)	885.500	r	(P-16163/94; A-5082)
879.50	n	(P-16111/94; A-5062)	885.500	r	(P-16163/94; A-5082)
880.100	r	(P-16039/94; A-5052)	886.10	r	(P-16228/94; A-5104)
880.200	r	(P-16039/94; A-5052)	886.10	r	(P-16228/94; A-5104)
880.300	r	(P-16039/94; A-5052)	886.30	r	(P-16228/94; A-5104)
881.10	r	(P-16039/94; A-5058)	886.100	r	(P-16228/94; A-5104)
881.20	r	(P-16039/94; A-5058)	886.110	r	(P-16228/94; A-5104)
881.30	r	(P-16039/94; A-5058)	886.120	r	(P-16228/94; A-5104)
881.40	r	(P-16039/94; A-5058)	886.130	r	(P-16228/94; A-5104)
881.50	r	(P-16039/94; A-5058)	886.140	r	(P-16228/94; A-5104)
881.60	r	(P-16039/94; A-5058)	886.200	r	(P-16228/94; A-5104)
881.70	r	(P-16039/94; A-5058)	886.220	r	(P-16228/94; A-5104)
882.100	n	(P-16121/94; A-5070)	886.230	r	(P-16228/94; A-5104)
882.200	am	(P-16121/94; A-5070)	886.240	am	(P-16121/94; A-5070)
882.250	am	(P-16121/94; A-5070)	886.250	am	(P-16121/94; A-5070)
882.260	am	(P-16121/94; A-5070)	886.260	am	(P-16121/94; A-5070)
882.300	r	(P-16121/94; A-5070)	886.300	r	(P-16121/94; A-5070)
882.400	r	(P-16121/94; A-5070)	886.320	r	(P-16121/94; A-5070)
882.410	n	(P-16121/94; A-5070)	886.330	r	(P-16121/94; A-5070)
882.420	n	(P-16121/94; A-5070)	886.340	r	(P-16121/94; A-5070)
882.430	n	(P-16121/94; A-5070)	886.350	n	(P-16121/94; A-5070)
882.440	am	(P-16121/94; A-5070)	886.400	am	(P-16121/94; A-5070)
882.450	am	(P-16121/94; A-5070)	886.410	am	(P-16121/94; A-5070)
882.500	am	(P-16121/94; A-5070)	886.420	am	(P-16121/94; A-5070)
882.510	am	(P-16121/94; A-5070)	886.430	am	(P-16121/94; A-5070)
882.520	am	(P-16121/94; A-5070)	886.440	am	(P-16121/94; A-5070)
882.530	am	(P-16121/94; A-5070)	886.450	am	(P-16121/94; A-5070)
883.100	r	(P-16039/94; A-5044)	887.100	r	(P-16129/94; A-5078)
883.200	r	(P-16039/94; A-5044)	887.100	r	(P-16129/94; A-5078)
883.300	r	(P-16039/94; A-5044)	887.100	r	(P-16129/94; A-5078)
883.400	r	(P-16039/94; A-5044)	887.100	r	(P-16129/94; A-5078)
883.500	r	(P-16039/94; A-5044)	887.100	r	(P-16129/94; A-5078)
883.600	r	(P-16039/94; A-5044)	887.100	r	(P-16129/94; A-5078)
883.700	r	(P-16039/94; A-5044)	887.100	r	(P-16129/94; A-5078)
883.800	r	(P-16039/94; A-5044)	887.100	r	(P-16129/94; A-5078)
884.10	r	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.20	r	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.30	r	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.40	r	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.50	r	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.60	r	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.70	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.80	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.90	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.100	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.110	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.120	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.130	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.140	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.150	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.160	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.170	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.180	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.190	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.200	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.210	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.220	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.230	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.240	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.250	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.260	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.270	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.280	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.290	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.300	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.310	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.320	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.330	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.340	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.350	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.360	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.370	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.380	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.390	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.400	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.410	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.420	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.430	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.440	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.450	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.460	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.470	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.480	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.490	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.500	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.510	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.520	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.530	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.540	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.550	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.560	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.570	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.580	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.590	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.600	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.610	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.620	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.630	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.640	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.650	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.660	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.670	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.680	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.690	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.700	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.710	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.720	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.730	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.740	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.750	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.760	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.770	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.780	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.790	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.800	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.810	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.820	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.830	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.840	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.850	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.860	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.870	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.880	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.890	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.900	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.910	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.920	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.930	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.940	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.950	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.960	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.970	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.980	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
884.990	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
885.000	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
885.010	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
885.020	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
885.030	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
885.040	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
885.050	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
885.060	am	(P-16264/94; A-5129)	887.100	r	(P-16264/94; A-5129)
885.070	am				

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1001.650 n	(P-341(E-54)
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ALABAMA HISTORICAL SOCIETY
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PLEASE USE THIS FORM FOR ALL ORDERS OR TO ORDER THE ALABAMA HISTORICAL SOCIETY
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